



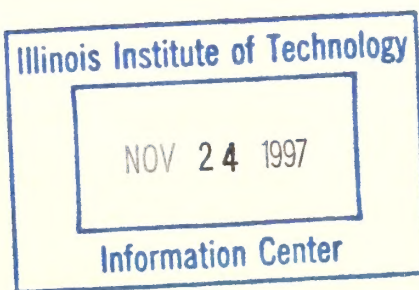
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Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April	18, 1997 - Issue 16: Through	March	31, 1997
July	18, 1997 - Issue 29: Through	June	30, 1997
October	17, 1997 - Issue 42: Through	September	30, 1997
January	16, 1998 - Issue 3: Through	December	31, 1997 (Annual)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Marking, Inventory, Transfer and Disposal of State-Owned Personal Property

2) Code Citation: 44 Ill. Adm. Code 5010

3) Section number: 5010.1410
Proposed Action: Repeal

4) Statutory Authority: Implementing and authorized by the State Property Control Act [30 ILCS 605]

5) A Complete Description of the Subjects and Issues Involved: This Section is being repealed as part of a reevaluation of how property for specific grant programs is handled after the university employee for whom the equipment is acquired is no longer employed in the State university system.

6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Stephen W. Seiple
720 Stratton Office Building
Springfield, IL 62706
(217)782-9669

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None.

B) Reporting, bookkeeping or other procedures required for compliance: None.

C) Types of professional skills necessary for compliance: None.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

13) Regulatory Agenda on which this rulemaking was summarized: This amendment was not included in the regulatory agenda because the need for the rulemaking did not come to the Department's attention until after the agenda was filed.

The full text of the Proposed Amendment begins on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND
PROPERTY MANAGEMENTSUBTITLE D: PROPERTY MANAGEMENT
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 5010

MARKING, INVENTORY, TRANSFER AND DISPOSAL OF
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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SUBPART L: DISPOSITION OF HAZARDOUS MATERIAL

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Disposal of Hazardous Material

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Implementing and authorized by Sections 67.15 and 67.22 of the Civil Administrative Code of Illinois [20 ILCS 405/67.15 and 67.22] and Sections 1 through 7, 8, and 9 of the State Property Control Act [30 ILCS 605/1-7, 8, and 9].

SOURCE: Adopted at 7 Ill. Reg. 9170, effective June 22, 1983; codified at 8 Ill. Reg. 17254; emergency amendment at 11 Ill. Reg. 2909, effective January 29, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 10671, effective June 14, 1988; emergency amendment at 14 Ill. Reg. 8714, effective May 15, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15775, effective September 17, 1990; amended at 16 Ill. Reg. 17595, effective November 9, 1992; amended at 22 Ill. Reg. _____, effective _____.

Section 5010.1410 Transfer of Property Purchased with Non-appropriated Funds for Research at State Universities (Repealed)

a) Property purchased--with--non-appropriated--funds--obtained--from--the sponsor--of--the--researcher--shall--be--exempt--from--State--Property--Control procedures--when--transferred--from--a--State--university--to--another university--if--all--the--following--conditions--are--met:

- 1) The--property--is--equipment--which--was--used--at--a--State--university for--sponsored--research;
 - 2) The--equipment--was--purchased--with--non-appropriated--funds--obtained from--the--sponsor--of--the--research;
 - 3) The---funds---were--paid--by--the--sponsor--for--the--purpose--of facilitating--research--by--an--identified--principal--investigator--or faculty--member--employed--by--the--State--university;
 - 4) The--employment--of--the--principal--investigator--or--faculty--member--at the--State--university--has--been--terminated--and--that--individual's research--is--to--continue--at--another--not--for--profit--university;
 - 5) The--responsible--officer--of--the--State--university--for--the--designee of--the--responsible--officer--has--determined--that:
 - (A)---the--equipment---is--needed--in--the--continuation--of--the individual's--research--and
 - (B)---the--other--university--is--willing--to--accept--responsibility--for the--equipment;
- b) The--State--university--transferring--such--property--shall--be--responsible for--all--records--pertaining--to--the--property--and--its--transfer--to--another university-

(Source: Repealed at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Certification and Operation of Radiochemistry Laboratories

- 2) Code Citation: 32 Ill. Adm. Code 406

<u>Section Number:</u>	<u>Proposed Action:</u>
406.10	New Section
406.20	New Section
406.25	New Section
406.30	New Section
406.40	New Section
406.50	New Section
406.60	New Section
406.70	New Section
406.80	New Section
406.90	New Section
406.100	New Section
406.110	New Section
406.120	New Section
406.130	New Section
406.140	New Section
406.200	New Section
406.210	New Section
406.220	New Section
406.230	New Section
406.240	New Section
406.250	New Section
406.260	New Section
406.270	New Section
406.280	New Section

- 4) Statutory Authority: Implementing the Civil Administrative Code of Illinois [20 ILCS 5] and authorized by Sections 55.10 through 55.12 and Section 71 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.10 through 55.12 and 20 ILCS 2005/71(D)].

- 5) A Complete Description of the Subjects and Issues Involved: The Department is proposing this rule to replace its portion of the Joint Rules of the Illinois Environmental Protection Agency, the Illinois Department of Public Health and the Department of Nuclear Safety: Certification and Operation of Environmental Laboratories (35 Ill. Adm. Code 183). This Part establishes the standards applicable to radiochemistry laboratories involved in radiochemical analyses of samples of water from public water supplies and their sources.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

- 8) Does this proposed rule contain incorporations by reference? Yes
- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. The Department will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Thomas J. Carlisle
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704
(217) 785-9884 (voice)
(217) 782-6133 (TDD)

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Laboratories desiring certification to perform regulatory compliance testing for radionuclides will be affected by this rulemaking.

B) Reporting, bookkeeping or other procedures required for compliance: Section 406.30 sets forth the certification procedures that need to be followed by radiochemistry laboratories seeking certification. Section 406.260 outlines the quality assurance program that needs to be maintained by the laboratory and Section 406.270 states that records of radiochemical analyses shall be kept by the laboratory for at least three years.

C) Types of professional skills necessary for compliance: Laboratory personnel qualifications are specified in Section 406.200 of this Part.

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included in either of the 2 most recent regulatory agendas because: Due to an oversight by the Department, this rulemaking was inadvertently omitted from the two most recent agendas when they were published. This rulemaking was listed on the January 1996 regulatory agenda.

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NOTICE OF PROPOSED RULES

The full text of the Proposed Rules begin on the next page:

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 406

CERTIFICATION AND OPERATION OF
RADIOCHEMISTRY LABORATORIES

SUBPART A: GENERAL PROVISIONS

Section	
406.10	Scope and Applicability
406.20	Definitions
406.25	Incorporations by Reference
406.30	Certification Procedures
406.40	Conditions Governing the Use of Certificates
406.50	Provisional Certification
406.60	Preliminary Certification
406.70	Changes in Ownership or Operations
406.80	Revocation of Certification
406.90	Subcontracting by Certified Laboratories
406.100	Performance Evaluation Samples
406.110	Authority of Certification Officers
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Section	
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406.210	Laboratory Facilities
406.220	Laboratory Equipment and Instrumentation
406.230	General Laboratory Practices
406.240	Analytical Methodology
406.250	Sample Collection, Handling and Preservation
406.260	Quality Assurance
406.270	Record Maintenance
406.280	Action Response to Laboratory Results

AUTHORITY: Implementing the Civil Administrative Code of Illinois [20 ILCS 5] and authorized by Sections 55.10 through 55.12 and Section 71 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.10 through 55.12, and 20 ILCS 2005/71(D)].

SOURCE: Adopted at 22 Ill. Reg. _____, effective _____.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

SUBPART A: GENERAL PROVISIONS

Section 406.10 Scope and Applicability

This Part establishes the standards applicable to radiochemistry laboratories involved in radiochemical analyses of samples of water from public water supplies and their sources.

Section 406.20 Definitions

For purposes of this Part, unless otherwise specifically defined or the context clearly requires a different meaning:

"Analyst" means any person who performs analyses for parameters on samples submitted to the radiochemistry laboratory and who meets the qualifications set forth in Section 406.200 of this Part.

"Analyst Assistant" means a person who performs certain analyses on samples submitted to the radiochemistry laboratory and who meets the qualifications set forth in Section 406.200 of this Part.

"Certification" means a status of approval granted to a radiochemist / laboratory that meets the criteria established by this Part or in accordance with a reciprocity agreement entered into pursuant to Section 406.140 of this Part. Certification is not a guarantee of the validity of the data generated.

"Certification Officer" means any person who is designated by the Department to inspect and evaluate radiochemistry laboratories for compliance in meeting the criteria set forth in this Part. Certification officers shall meet the educational and experience qualifications for laboratory directors as set forth in Section 406.200 of this Part.

"Deficiency" means a failure of a radiochemistry laboratory to meet any applicable requirement of this Part.

"Department" means the Department of Nuclear Safety.

"Director" means the Director of the Department of Nuclear Safety.

"Laboratory Director" means the person who is responsible for the operation of an radiochemistry laboratory and who meets the qualifications set forth in Section 406.200 of this Part.

"Major Remodeling" means any remodeling of the laboratory facility which requires the acquisition of a local building permit.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

"Parameter" means a chemical element, chemical compound or radionuclide.

"Performance Evaluation Sample (PES)" means a sample used to determine accuracy, prepared either by the certifying agency or an authority recognized by the certifying agency, in which the true value and acceptance limits are unknown to the laboratory at the time of analysis.

"Provisional Certification" means a certification status granted to a radiochemistry laboratory in order to allow time for the correction of a deficiency. Failure to correct a deficiency during the provisional certification period allows the Department to revoke certification as specified in Section 406.80 of this Part. While on provisional certification, a radiochemistry laboratory remains approved for the analyses covered by its certification.

"Public Water Supply" means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections, or which regularly serve at least 25 persons at least 60 days per year.

"Radiochemistry Laboratory" means any facility that performs radiochemical analyses on environmental samples in order to determine the quality of food, milk, public water supplies, surface water, ground water, recreational waters, wastewater, air or land.

Section 406.25 Incorporations by Reference

All rules, standards and guidelines of agencies of the United States or nationally recognized organizations or associations that are incorporated by reference in this Part are incorporated as of the date specified in the reference and do not include any later amendments or editions. Copies of these rules, standards and guidelines that have been incorporated by reference are available for public inspection at the Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois.

AGENCY NOTE: In this Part, the Department has specifically incorporated by reference the methods listed in the table in Section 141.25(a), "Analytical Methods for Radioactivity", 40 CFR 141, National Primary Drinking Water Regulations effective as of March 5, 1997. This table was originally published at 62 FR 10173 - 10174 (March 5, 1997). The Department further incorporates the latest publication of the "Determination of Radium-228 in Drinking Water", August 1990 in lieu of the reference publication date shown in

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

footnote 10 on page 10174. Additionally, in footnote 12 on page 10174, the correct scientific number should read pCi/ug.

Section 406.30 Certification Procedures

- a) A radiochemistry laboratory that meets or exceeds the minimum criteria for certification may receive certification from the Department for any radiological parameter for which a methodology has been specified in this Part, or for which an alternative methodology has been approved in accordance with the provisions of this Part.
- b) The operational aspects of a radiochemistry laboratory that will be evaluated in considering a request for certification are:
 - 1) laboratory facilities;
 - 2) personnel;
 - 3) methodology and instrumentation;
 - 4) data handling; and
 - 5) quality assurance program.
- c) In seeking certification, the petitioning radiochemistry laboratory shall:
 - 1) Submit a formal request for certification to the Department;
 - 2) File with the Department, on the applicable administrative questionnaires furnished by the Department, if available, or otherwise in a form approved by the Department, complete information on the five categories listed in subsection (b) of this Section;
 - 3) Analyze all performance evaluation samples required in accordance with Section 406.100 and Section 406.260(c) and (d) of this Part and report the results of such analyses to the Department; and
 - 4) Permit and cooperate in an on-site visit by Department authorized certification officers. Certification officers shall provide the radiochemistry laboratory with official identification and credentials. The initial visit will be arranged at the mutual convenience of both parties. The Department reserves the right to make subsequent visits without prior notice during regular working hours.

- d) Approval or denial of certification may be made only after the procedure described in subsection (c) of this Section has been completed. Denial of certification shall be in the form of a narrative, giving information as to how deficiencies may be corrected, along with a completed survey form on which all deficiencies are clearly identified.
- e) Radiochemistry laboratories in jurisdictions not having reciprocal agreements with the Department under Section 406.140 of this Part may receive certification from the Department under this Part and shall pay all of the expenses to be incurred by the Department, including travel expenses, prior to evaluation.

Section 406.40 Conditions Governing the Use of Certificates

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

- a) Certification of radiochemistry laboratories under this Part shall be effective for a 3-year period from the date of issue, unless modified or revoked by the Department. Application for timely renewal of certification shall be made to the Department no later than 90 days prior to the applicable expiration date. Approval of a renewal application shall be contingent upon the radiochemistry laboratory meeting all of the factors considered in granting the original certification, including acceptable results on performance evaluation samples required under this Part. When a certified radiochemistry laboratory has made timely and sufficient application for renewal of certification or certification for additional parameters, the existing certification shall, unless otherwise modified or revoked in accordance with this Part, continue in full force and effect until the final decision of the Department on the application has been made.
- b) Certification shall be limited to those parameters for which a radiochemistry laboratory has been approved and which are listed on the certificate of approval.
- c) The certificate of approval shall be posted or displayed in a prominent place in the laboratory facility.
- d) Information related to the certification of a radiochemistry laboratory shall be accurately represented if used in any advertising and shall prominently include the statement that "Certification by the State of Illinois is not an endorsement or a guarantee of the validity of the data generated." Such information shall also specify the parameters for which the radiochemistry laboratory has been certified. The advertising shall not include any representation that the radiochemistry laboratory is certified to perform a type of analysis for which it lacks proper certification.
- e) A radiochemistry laboratory may surrender its certification voluntarily by notifying the Department in writing and returning the certificate.

Section 406.50 Provisional Certification

- a) Whenever a deficiency is found, a certified radiochemistry laboratory may be placed on provisional certification. Provisional certification may be imposed for the following periods:
 - 1) From 7 to 30 days if the deficiency could compromise the quality of analytical data generated by the radiochemistry laboratory; or
 - 2) From 90 days to one year for any other type of deficiency.
- b) A provisionally certified laboratory may continue to analyze samples for compliance purposes, but shall notify its clients of its provisionally certified status by providing that information in writing, as soon as practicable, but in no event later than 3 working days after the imposition of provisionally certified status and shall also include such information on any report of any analysis performed during the period of provisional certification.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

Section 406.60 Preliminary Certification

The Department may grant written preliminary certification to a radiochemistry laboratory that has demonstrated compliance with the applicable provisions of this Part after completion of the procedures specified in Section 406.30(c)(1) through (c)(3) of this Part. Preliminary certification would be available in instances where it would be impractical for the Department to schedule an on-site visit within 6 months from the date of a laboratory's submission of satisfactory analysis results for performance evaluation samples. Unless modified or revoked in accordance with this Part, preliminary certification shall remain in effect until certification has been approved or denied in accordance with Section 406.30 of this Part.

Section 406.70 Changes in Ownership or Operations

- a) Certification shall not be transferable. In the event of a change of ownership, director or principal supervisor of analysts, or relocation or major remodeling of the physical plant of a radiochemistry laboratory, the Department shall be notified in writing within 15 days and shall be provided with the resume of any new owner, director and supervisor and a description of any relocation or remodeling of the physical plant.
- b) After receiving notification of any of the changes listed in subsection (a) of this Section, the Department may review the resume of any new owner, director or principal supervisor of analysts, or make an on-site visit. However, the Department may waive any of these actions if it finds such actions to be unwarranted in a specific case. Examples of when such waivers would be appropriate include the following circumstances:
 - 1) Waiver of submittal of a summary of education and experience when personnel transferring from one certified laboratory to another are responsible for dealing with the same analytical methods and equivalent equipment; and
 - 2) Waiver of an on-site visit if the pertinent test procedures involve simple techniques and equipment.

Section 406.80 Revocation of Certification

- a) The Department may revoke all or any part of a radiochemistry laboratory's certification. Any of the following shall be cause for partial or total revocation of certification:
 - 1) Expiration of a period of provisional certification, provided the laboratory has not corrected the deficiencies after being placed on provisional certification in accordance with the provisions of Section 406.50 of this Part;
 - 2) Unsatisfactory analyses of performance evaluation samples as specified in Section 406.100 of this Part;
 - 3) Failure to notify the Department within 15 days after any of the

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- changes listed in Section 406.70 of this Part have occurred;
 - 4) Failure to comply with the requirements regarding advertising as specified in Section 406.40(d) of this Part;
 - 5) Failure to use the analytical methodology specified in this Part or approved in accordance with this Part;
 - 6) Failure to provide notice in accordance with Section 406.50 of this Part or its status as a provisionally certified radiochemistry laboratory; or
 - 7) Falsification of results of testing of performance evaluation samples or any other information material to the certification.
- b) The following factors shall be taken into account by the Department in determining what action shall be taken against a certified or provisionally certified radiochemistry laboratory for failing to comply with the requirements of this Section:
- 1) The length of time during which the deficiency has existed;
 - 2) The laboratory's prior record of deficiencies and response in correcting deficiencies noted by the Department;
 - 3) Whether the laboratory knowingly caused or allowed the deficiency; and
 - 4) The potential effect of the deficiency on the quality of analytical data generated by the laboratory.

Section 406.90 Subcontracting by Certified Laboratories

- a) The name of the laboratory actually performing the analysis shall be specified on all reports of analytical results.
- b) For those tests that are required to be performed under certification, any laboratory with which a certified radiochemistry laboratory subcontracts shall also be a certified radiochemistry laboratory.

Section 406.100 Performance Evaluation Samples

A radiochemistry laboratory is required to participate in performance evaluation sample analyses for each analytical parameter or method for which it seeks or wishes to maintain certification in accordance with the certification procedures of Section 406.30 and Section 406.260(c) and (d) of this Part and the certification renewal procedures of Section 406.40 of this Part. Within 90 days after receipt of a performance evaluation sample, the radiochemistry laboratory shall analyze such sample and report the test results to the Department. There shall be no fee charged to the Department for such analyses. Failure to provide results proving satisfactory precision and accuracy in two successive samples shall be cause for revocation of certification for the parameter or method not within satisfactory limits.

Section 406.110 Authority of Certification Officers

Certification officers shall have all of the following authority with regard to radiochemistry laboratories:

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- a) To inspect such laboratories in on-site visits;
- b) To require the laboratory to provide information regarding the technical operation of such laboratory relevant to certification;
- c) To inspect quality assurance records and any other pertinent records;
- d) To observe and question analysts at work on parameters or methods for which certification is sought; and
- e) To grant or deny certification based upon the completion of the evaluation process.

Section 406.120 Hearing, Decision and Appeal

The following procedures are established for those Department certification actions that law requires to be preceded by notice and opportunity for hearing:

- a) Prior to revocation or partial revocation, the Department shall give written notice to the laboratory director or owner. This notice shall include a description of the proposed action, the facts or conduct upon which the Department will rely to support its proposed action and the procedures for requesting a hearing.

- b) Notice given under subsection (a) of this Section and any hearing requested following issuance of such notice shall be in accordance with 32 Ill. Adm. Code 200.

- c) If, however, the Department finds that an emergency situation warrants immediate action, summary suspension as provided for by Section 10-65(d) the Illinois Administrative Procedure Act [5 ILCS 100/10-65(d)] may be ordered pending revocation proceedings. An emergency situation warrants immediate action if there is substantial risk to public health, safety or welfare resulting from laboratory deficiencies that are compromising or are likely to compromise the analytical results obtained.

- d) A final decision of the Director is appealable to the Circuit Courts under the Illinois Administrative Review Act [735 ILCS 5/Art. III].

Section 406.130 Liability

Representatives of the Department shall not waive the right to seek recovery for injuries incurred while inspecting a radiochemistry laboratory facility.

Section 406.140 Reciprocity Agreements

Notwithstanding any other provision in this Part, the Director may elect to enter into agreements with the governments of other states or with federal governmental units for recognition of their radiochemistry laboratory inspections and certifications if such certification program uses equivalent controls over sample collection, data handling, quality control, analytical methods and personnel as required of radiochemistry laboratories within Illinois.

SUBPART B: RADIOCHEMISTRY ANALYSES OF PUBLIC WATER SUPPLY SAMPLES

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Section 406.200 Personnel Requirements

- a) The laboratory director shall be a person holding a minimum of a bachelor's degree in natural or physical sciences with at least 24 semester hours in chemistry or microbiology or both, and shall have had a minimum of 5 years experience in an environmental laboratory.
- b) An analyst is a full-time employee holding a minimum of a bachelor's degree in chemistry, radiochemistry, radioisotope technology or related natural science fields and having had at least 2 years of experience in radiation and radiochemical procedures.
- c) An analyst assistant is a person holding a high school diploma or its equivalent and having had a minimum of 6 months of training or experience or both in routine radiochemistry. Analyst assistants can perform the measurement of gross alpha and gross beta radioactivity. Analyst assistants may assist in routine sample preparation and radioanalytical procedures provided that such work is supervised and validated by an analyst or principal supervisor.
- d) An analyst trainee is a person holding a high school diploma or its equivalent. During the period of training, an analyst trainee shall work under the direct supervision of a principal supervisor, an analyst or an analyst assistant, but shall not exercise independent judgement.

Section 406.210 Laboratory Facilities

The laboratory facilities shall meet the following specifications:

- a) A minimum of 150 square feet of floor space shall be provided for each analyst.
- b) A minimum of 15 linear feet of usable bench space shall be provided for each analyst.
- c) In areas where radioactive standards are prepared, bench tops shall be of an impervious material which may be covered with disposable absorbent paper, or impervious trays lined with absorbent paper shall be available.
- d) The laboratory shall include a sink with hot and cold running water. All water supply outlets shall be protected by approved vacuum breakers.
- e) An adequate electrical supply for operation of instruments and mechanical needs shall be provided. The certification officer may require verification from an official inspector or other qualified person that the laboratory meets local and national electrical codes.
- f) All electrical outlets shall be properly grounded.
- g) Instruments shall be properly grounded with an internal or external regulated power supply available to each instrument.
- h) All plumbing shall meet local and state plumbing codes. The certification officer may require verification from an official inspector or other qualified person that the laboratory meets such codes.

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- i) A natural gas, LP gas, or propane gas supply shall be available.
- j) The laboratory shall include a vacuum source.
- k) A source of distilled water or deionized water or both shall be readily available.
- l) The laboratory shall include at least one fume hood.
- m) Counting instruments shall be located in a room separate from all other analytical activities. The temperature of such room shall be maintained between 60° F (16° C) and 80° F (27° C) and shall not vary under normal operating conditions by more than 3° C.

Section 406.220 Laboratory Equipment and Instrumentation

Instruments that are needed to analyze for the parameters for which the laboratory is being certified shall meet the following minimum specifications.

- a) An analytical balance shall have a precision of plus or minus 0.1 mg or better and a scale readability of 0.1 mg or better.
- b) A pH meter shall have an accuracy of plus or minus 0.1 units or better, and a scale readability of plus or minus 0.1 units or better. The pH meter may be either line/bench or battery/portable operated.
- c) A specific ion meter shall have an accuracy and scale readability of plus or minus 0.1 mV or better and shall have expanded millivolt scale capability. The specific ion meter may be either line/bench or battery/portable operated.
- d) A conductivity meter and cell combination, suitable for checking distilled water quality, shall be readable in ohms or mhos, and have a range of up to 4 megohm/cm or greater (conductivity down to 0.1 micromhos/cm) plus or minus 1 percent. The conductivity meter may be either line/bench or battery/portable operated.
- e) A drying oven shall be of the gravity convection type.
- f) A desiccator may be a glass, glass and metal, or plastic model, depending upon the particular application.
- g) A hot plate shall have a selectable temperature control for safe heating of samples and laboratory reagents.
- h) Glassware which is used for purposes that may subject it to damage from heat or chemicals shall be of borosilicate glass. All volumetric glassware shall be Class A, denoting that it meets federal specifications and is certified by the manufacturer as meeting the standards established by the American Society for Testing and Materials (ASTM).
- i) A muffle furnace shall be automatically controlled with a chamber capacity of at least 2200 cubic centimeters. The maximum operating temperature of the muffle furnace shall be at least 1100° C intermittent and 1000° C continuous.
- j) A centrifuge shall be capable of attaining a speed of at least 3000 rpm and shall have a loading option of 4 x 50 mL capacity.
- k) A fluorometer shall be capable of detecting 0.0005 micrograms of uranium.
- l) A liquid-scintillation system shall be such that the sensitivity of

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- m) A gas-flow proportional counting system or other low background alpha-particle and beta-particle counting system shall have a cosmic guard detector operated in anticoincidence with the signal from the sample detector and shielding, such that the alpha-particle background will not exceed 0.2 cpm and the beta-particle background will not exceed 2.0 cpm for a 2 inch diameter counting planchet geometry. The system shall be such that the sensitivity of the radioanalysis will meet or exceed the standards specified in this part.
- n) A scintillation system designed for alpha-particle counting and used for the measurement of gross alpha activities or radium-226 shall include a Mylar disc coated with a phosphor (silver-activated zinc sulfide) which is placed either directly on the sample or on the face of a photomultiplier tube and is enclosed in a light-tight container. The system shall also include appropriate electronics (high voltage supply, amplifier, timer and scaler).
- o) A scintillation cell system for the specific measurement of radium-226 by the radon emanation method shall include a light-tight enclosure capable of accepting the scintillation cells, a detector (phototube) and the appropriate electronics (high voltage supply, amplifier, timer and scaler).
- p) A gamma-ray spectrometer system shall include a thallium-activated sodium iodide (NaI(Tl)) crystal, a solid state lithium drifted germanium (Ge(Li)) detector, a high purity germanium detector or a gamma-X photon detector connected to a multichannel pulse-height analyzer.
 - 1) If a sodium iodide detector is used, the crystal shall be, at minimum, a 7.5 cm x 7.5 cm cylindrical crystal, or preferably, a 10 cm x 10 cm crystal. A minimum shielding equivalent to 10 cm of iron shall surround the detector. The multichannel pulse-height analyzer, in addition to appropriate electronics, shall contain a memory of not less than 250 channels and at least one readout device.
 - 2) If a lithium-drifted germanium detector, a high purity germanium detector or a gamma-X photon detector is used, a minimum shielding equivalent to 10 cm of iron shall surround the detector. The multichannel analyzer, in addition to appropriate electronics, shall contain a memory of not less than 2000 channels and at least one readout device.

Section 406.230 General Laboratory Practices

- a) Prior to use, all plastic or glass labware shall be washed in a warm detergent solution and thoroughly rinsed, first in tap water and then in distilled or deionized water. Cleaned labware shall be stored in a manner to keep it clean. This cleaning procedure is sufficient for most analytical needs, but the procedures specified for individual

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parameters shall be referred to for more elaborate precautions to be taken against contamination of labware.

- b) Distilled or deionized water shall have resistivity values of at least 1.0 megohm/cm (conductivity less than 1.0 micromhos/cm) at 25° C.
- c) When commercially available, chemicals certified by the manufacturer as being "analytical reagent grade" as specified by the American Chemical Society (ACS) or higher quality chemicals shall be used for all procedures.
- d) An enclosed, properly labeled area shall be available for the safe storage of radioactive materials.
- e) There shall be a designated area within the laboratory for preparation of radioactive standards and samples. Appropriate precautions shall be taken in this area to minimize radiation exposure and to prevent radioactive contamination. Provisions shall be made for safe storage and disposal of radioactive wastes and for monitoring the work area.

Section 406.240 Analytical Methodology

a) The methods listed in the table in Section 141.25(a), "Analytical Methods for Radiocativity", 40 CFR 141, National Primary Drinking Water Regulations effective as of March 5, 1997, published at 62 FR 10173 - 10174 are to be used to determine compliance with this Part (see Agency Note in Section 406.25 of this Part).

b) When the identification and measurement of radionuclides other than those listed in subsection (a) of this Section is required, the methods designated for water analysis in the following references are to be followed:

- 1) H. L. Krieger and S. Gold, "Procedures for Radiochemical Analysis of Nuclear Reactor Aqueous Solutions," EPA-R4-73-014, U.S. Environmental Protection Agency, Cincinnati, Ohio (May 1973); or
- 2) John H. Harley, ed., "HASL Procedure Manual," HASL-300, Environmental Measurement Laboratory, New York, New York (1997).

c) For the purpose of monitoring radioactivity concentrations in drinking water, the required sensitivity of the radioanalysis is defined in terms of a detection limit. The detection limit shall be that concentration which can be counted with a precision of plus or minus 100 percent at the 95 percent confidence level (1.96 sigma (s) where sigma (s) is the standard deviation of the net counting rate of the sample). The standards for detection limits of radioanalyses are as follows:

- 1) To determine compliance with maximum allowable concentration levels for radium-226 and radium-228, the detection limit shall not exceed 1 pCi/L.
- 2) To determine compliance with maximum allowable concentration levels for gross alpha activity (including radium-226, but excluding radon and uranium) the detection limit shall not exceed 3 pCi/L.
- 3) To determine compliance with maximum allowable concentration

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levels for beta-particle and photon radioactivity, the detection limits shall not exceed the following concentrations:

Radionuclide	Detection Limit
Tritium	1000 pCi/L
Strontium-89	10 pCi/L
Strontium-90	2 pCi/L
Iodine-131	1 pCi/L
Cesium-134	10 pCi/L
Gross beta	4 pCi/L
Other radionuclides[a]	1/10 of the applicable limit

AGENCY NOTE:

[a] As calculated from "Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure," National Bureau of Standards Handbook 69, August 1963, U.S. Department of Commerce.

d) To determine compliance with the applicable maximum contaminant levels, averages of data shall be used and shall be rounded to the same number of significant digits as stated in the maximum contaminant level established for the substance in question.

e) The Department may, upon written application, approve the use of an alternative analytical technique. An alternative analytical technique shall not be approved unless the Department determines that the technique is substantially equivalent to the prescribed test both in precision and accuracy as it relates to the determination of compliance with the applicable maximum contaminant level. Such approval shall be in writing and shall not be effective without the concurrence of the Administrator of the U.S. Environmental Protection Agency.

Section 406.250 Sample Collection, Handling and Preservation

The following requirements for container types and preservation shall be met for each individual parameter[a]:

Parameter	Preservative[b]	Container[c]
Gross alpha	Conc HCl or HNO ₃ to pH less than 2[d]	P or G
Gross beta	Conc HCl or HNO ₃ to pH less than 2[d]	P or G

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Strontium-89	Conc HCl or HNO ₃ to pH less than 2	P or G
Strontium-90	Conc HCl or HNO ₃ to pH less than 2	P or G
Radium-226	Conc HCl or HNO ₃ to pH less than 2	P or G
Radium-228	Conc HCl or HNO ₃ to pH less than 2	P or G
Cesium-134	Conc HCl to pH less than 2	P or G
Iodine-131	NONE	P or G
Tritium	NONE	P or G
Uranium	Conc HCl or HNO ₃ to pH less than 2	P or G
Photon emitters	Conc HCl or HNO ₃ to pH less than 2	P or G

AGENCY NOTES:

[a] If a laboratory has no control over these factors, the laboratory director must reject any samples not meeting these criteria and so notify the authority requesting the analyses.

[b] Preservative shall be added to the sample at the time of collection, unless suspended solids are to be measured or unless the concentrated acid specified for preservation cannot be added because of shipping restrictions. If it is necessary to ship the sample unpreserved to the laboratory or storage area, acidification may be delayed up to 5 days. After acidification, samples shall be thoroughly mixed and then preserved for a minimum of 16 hours before analysis.

[c] P = Plastic, hard or soft; G = Glass, borosilicate or flint.

[d] If HCl is used to acidify samples to be analyzed for gross alpha or gross beta activity, the acid salts shall be converted to nitrate salts before transfer of samples to planchets.

Section 406.260 Quality Assurance

a) A written description of the current laboratory quality assurance program shall be maintained and made available to analysts in an area of the laboratory where analytical work takes place. A record of analytical quality assurance tests and quality assurance checks on materials and equipment shall be prepared and retained for at least 3 years.

b) A laboratory manual containing complete written instructions for each parameter or method for which the laboratory is certified shall be maintained and made available to analysts in an area of the laboratory where analytical work takes place.

c) The laboratory shall participate at least twice per year in those U.S. Environmental Protection Agency Performance Evaluation Studies that

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include parameters and methods for which the laboratory is or desires to be certified. Analytical results shall be within 1.73 times the standard deviation of the specific analysis as described in "Environmental Radioactivity Laboratory Intercomparison Studies Program, Fiscal Year 1981-1982," EPA-600/4-81-004, Table 3, U.S. Environmental Protection Agency (1982). Results shall be provided to the Department within 90 days after receipt of the performance evaluation sample.

d) The laboratory shall participate at least once per year in the blind Performance Evaluation Study administered by the U.S. Environmental Protection Agency. Analytical results shall be within 1.73 times the standard deviation of the specific analysis as described in "Environmental Radioactivity Laboratory Intercomparison Studies Program, Fiscal Year 1981-1982," EPA-600/4-81-004, Table 3, U.S. Environmental Protection Agency (1982), for each parameter or method for which the laboratory is or desires to be certified. Results shall be provided to the Department within 90 days after receipt of the blind performance evaluation sample.

e) Operating manuals and calibration protocols for counting instruments shall be available to laboratory personnel.

f) Calibration data and maintenance records on all radiation instruments shall be maintained in a permanently bound record.

g) The following quality control procedures shall be utilized by the laboratory on a daily basis:

1) To verify internal laboratory precision for a specific analysis, 10 percent or more duplicate analyses shall be performed. If the difference between duplicate analyses exceeds two times the standard deviation of the specific analysis as described in "Environmental Radioactivity Laboratory Intercomparison Studies Program, Fiscal Year 1981-1982," EPA-600/4-81-004, Table 3, U.S. Environmental Protection Agency (1982), prior measurements are suspect, calculations and procedures shall be examined and samples shall be re-analyzed when necessary.

2) When 20 or more specific analyses are performed each day, a performance standard and a background sample shall be measured with each 20 samples. If less than 20 specific analyses are performed each day, a performance standard and a background sample shall be measured along with the samples, except for low level gamma counting.

3) Quality control performance charts or records shall be maintained for each instrument.

h) Weights certified by the manufacturer as meeting the requirements established by the American Society for Testing and Materials (ASTM) for Class "1" weights shall be available at the laboratory and used to make periodic checks on balances.

i) Chemicals shall be dated upon receipt of shipment and replaced before shelf life has been exceeded.

j) The laboratory should prepare and follow a written quality assurance

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(QA) plan. The following items should be addressed in each QA plan:

- 1) Sampling procedures;
- 2) Sample handling procedures, which specify the methods used to maintain the integrity of all samples (i.e., tracking samples from receipt by laboratory through analysis to final disposition), and provide for maintaining and documenting the chain of custody of samples identified to the laboratory as likely to be the basis for enforcement actions;
- 3) Instrument or equipment calibration procedures and frequency of their use;
- 4) Analytical procedures;
- 5) Data reduction, validation and reporting, including conversion of raw data to final reported results, insuring accuracy of data transcription and calculations, and procedures and format for reporting data to water supply operators, the Department, and other state and federal agencies;
- 6) Types of quality control checks and frequency of their use, which may include preparation of calibration curves, instrument calibrations, replicate analyses, use of quality control samples or calibration standards, and use of quality control charts;
- 7) Preventive maintenance procedures and schedules;
- 8) Specific routine procedures used to determine data precision and accuracy for each contaminant measured. Precision is determined based on the results of replicate analyses. Accuracy is normally determined by comparison of results with known concentrations in reagent water standards and by analyses of water matrix samples before and after adding a known contaminant spike;
- 9) Corrective action contingencies, specifying the laboratory's response to obtaining unacceptable results from analysis of performance evaluation samples and from internal quality control checks;
- 10) Laboratory organization and responsibility, including a chart or table showing the laboratory organization and line of authority, and listing the key individuals who are responsible for ensuring the production of valid measurements and for the routine assessment of measurement systems for precision and accuracy (e.g., who is responsible for internal audits and reviews of the implementation of the plan and its requirements).

k) The quality assurance plan may be a separately prepared quality assurance document or may incorporate by reference already available standard operation procedures (SOPs) that are approved by the laboratory director and that address the items listed in subsection (j) of this Section. If a particular listed item is not relevant, the quality assurance plan should state this and provide a brief explanation (e.g., some laboratories do not collect samples and thus are not required to describe sampling procedures). A laboratory quality assurance plan should be concise but responsive to the items listed in subsection (j) of this Section. Minimizing paperwork while

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improving the dependability and quality of data are the intended goals.

Section 406.270 Record Maintenance

- a) Compliance monitoring activities shall be performed using the analytical methodology specified in Section 406.240(a) and (b) of this part or approved in accordance with Section 406.240(e) of this part. These activities shall be in accordance with written procedures for sample handling. These procedures shall provide for establishing and maintaining an accurate written record that documents the possession and handling of samples.
- b) Records of radiochemical analyses shall be kept by the laboratory for at least 3 years. This includes raw data, calculations, quality assurance data and reports. Actual laboratory reports may be kept. However, data, with the exception of the results of testing the compliance check samples required by Section 406.260(c) and (d) of this part, may be transferred to tabular summaries that shall include the following information:
 - 1) Date, place and time of sampling;
 - 2) Name of person who collected the sample;
 - 3) Identification of the sample origin, such as routine distribution sample, check sample, raw or process water sample, surface or ground water sample or other special purpose samples;
 - 4) Date of receipt of sample;
 - 5) Date of sample analysis;
 - 6) Name of the persons responsible for performing the analysis;
 - 7) Analytical techniques or methods used; and
 - 8) Results of the analysis.
- c) Computer programs designed and developed in-house shall be verified initially by manual calculations and the calculations shall be available for inspection.
- d) The disposal of all records subject to the Local Records Act [50 ILCS 205] must be in accordance with the provisions of that Act.

Section 406.280 Action Response to Laboratory Results

When action response is a designated responsibility of the laboratory and laboratory results indicate that a maximum allowable concentration of any parameter has been exceeded, the laboratory shall notify the person requesting the analysis within 2 business days after obtaining the unsatisfactory sample result.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Identification and Listing of Hazardous Waste

2) Code Citation: 35 Ill. Adm. Code 721

3) Section Numbers: Proposed Action:
721.109 Amended

4) Statutory Authority: 415 ILCS 5/22.23a and 27

5) A Complete Description of the Subjects and Issues Involved: A more complete description of this regulation may be found in the Board's opinion and order of November 6, 1997, in R98-12. On August 19, 1997, Governor Jim Edgar signed into law Public Act 90-502 (PA 90-502, effective August 19, 1997 (amended 415 ILCS 5/22.23a). This legislation specifically designated high intensity discharge lamps and fluorescent lamps, which were classified as hazardous waste, as a category of universal waste. It further required the Illinois Environmental Protection Agency (Agency) to propose implementing regulations to the Board within 60 days after the effective date of the Public Act and for the Board to adopt such regulations within 180 days after receipt of the Agency's proposal. The proposed amendments to Part 733 contain the majority of amendments to the Board's rules needed to designate mercury containing lamps as a category of universal waste. The proposed amendments to Part 721, however, incorporate changes to include mercury containing lamps as a category of universal waste.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Policy Objectives: The policy objectives of this rulemaking are those enumerated in Sections 9 and 27 of the Environmental Protection Act. The objective is to protect health and the environment from pollution while providing economically reasonable and technically feasible control options. This is also a rulemaking mandated by Public Act 90-502, which designated high intensity discharge lamps and fluorescent lamps as a category of universal waste. Such designation is intended to reduce the amount of hazardous waste in the municipal solid waste stream, to encourage recycling and proper disposal of common hazardous wastes, and to reduce the regulatory burden on businesses that generate the wastes.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments concerning this rulemaking should reference R98-12 and be sent to:

POLLUTION CONTROL BOARD

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Dorothy Gunn
Clerk of the Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, IL 60601
312/814-6931

Questions regarding this proposal may be directed to Cynthia Ervin at 217-524-8509.

12) Initial Regulatory Flexibility Analysis:

This proposal is filed pursuant to the Environmental Protection Act.

A) Types of small businesses affected: Any small business which handles mercury containing lamps.

B) Reporting, bookkeeping, or other procedures required for compliance: The proposed amendments will eliminate the need for handlers of mercury containing lamps to make and submit to the Agency manifests and other reports. Currently, handlers and transporters of hazardous wastes must meet extensive manifesting and recordkeeping requirements, many of which are reported to and tracked by the Agency. The proposed regulations reduce these requirements with respect to mercury containing lamps.

C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, or registered professional engineer.

13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the Proposed Rule(s) begins on the next page:

POLLUTION CONTROL BOARD

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TITLE 35: ENVIRONMENTAL PROTECTION
 SUBTITLE G: WASTE DISPOSAL
 CHAPTER I: POLLUTION CONTROL BOARD
 SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 721
 IDENTIFICATION AND LISTING OF
 HAZARDOUS WASTE

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721.102	Definition of Solid Waste
721.103	Definition of Hazardous Waste
721.104	Exclusions
721.105	Special Requirements for Hazardous Waste Generated by Small Quantity Generators
721.106	Requirements for Recyclable Materials
721.107	Residues of Hazardous Waste in Empty Containers
721.108	PCB Wastes Regulated under TSCA
721.109	Requirements for Universal Waste

SUBPART B: CRITERIA FOR IDENTIFYING THE
 CHARACTERISTICS OF HAZARDOUS WASTE
 AND FOR LISTING HAZARDOUS WASTES

Section	
721.110	Criteria for Identifying the Characteristics of Hazardous Waste
721.111	Criteria for Listing Hazardous Waste

SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

Section	
721.120	General
721.121	Characteristic of Ignitability
721.122	Characteristic of Corrosivity
721.123	Characteristic of Reactivity
721.124	Toxicity Characteristic

SUBPART D: LISTS OF HAZARDOUS WASTE

Section	
721.130	General
721.131	Hazardous Wastes From Nonspecific Sources
721.132	Hazardous Waste from Specific Sources
721.133	Discarded Commercial Chemical Products, Off-Specification Species, Container Residues and Spill Residues Thereof

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721.135 Wood Preserving Wastes

APPENDIX A	Representative Sampling Methods
APPENDIX B	Method 1311 Toxicity Characteristic Leaching Procedure (TCLP)
APPENDIX C	Chemical Analysis Test Methods
TABLE A	Analytical Characteristics of Organic Chemicals (Repealed)
TABLE B	Analytical Characteristics of Inorganic Species (Repealed)
TABLE C	Sample Preparation/Sample Introduction Techniques (Repealed)
APPENDIX G	Basis for Listing Hazardous Wastes
APPENDIX H	Hazardous Constituents
APPENDIX I	Wastes Excluded by Administrative Action
TABLE A	Wastes Excluded by U.S. EPA under 40 CFR 260.20 and 260.22 from Non-Specific Sources
TABLE B	Wastes Excluded by USEPA under 40 CFR 260.20 and 260.22 from Specific Sources
TABLE C	Wastes Excluded by U.S. EPA under 40 CFR 260.20 and 260.22 from Commercial Chemical Products, Off-Specification Species, Container Residues, and Soil Residues Thereof
TABLE D	Wastes Excluded by the Board by Adjusted Standard
APPENDIX J	Method of Analysis of Chlorinated Dibenzo-p-dioxins and Dibenzofurans (Repealed)
APPENDIX Z	Table to Section 721.102

AUTHORITY: Implementing Sections 22.4 and 22.23a and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/22.4, 22.23a, and 27].

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22, 45 PCB 317, at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18, 51 PCB 31, at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19, 53 PCB 131, at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 PCB 247, at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9, at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended

POLLUTION CONTROL BOARD

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in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10963, effective August 1, 1996; amended in R98-12 at 22 Ill. Reg. _____, effective _____.

Section 721.109 Requirements for Universal Waste

The wastes listed in this Section are exempt from regulation under 35 Ill. Adm. Code 702 through 705, 722 through 726, and 728, except as specified in 35 Ill. Adm. Code 733, and are therefore not fully regulated as hazardous waste. The wastes listed in this Section are subject to regulation under 35 Ill. Adm. Code 733:

- a) Batteries, as described in 35 Ill. Adm. Code 733.102;
 - b) Pesticides, as described in 35 Ill. Adm. Code 733.103; and
 - c) Thermostats, as described in 35 Ill. Adm. Code 733.104; and-
 - d) Mercury-containing lamps, as described in 35 Ill. Adm. Code 733.107.
- BOARD NOTE: Subsection (d) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see PA 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- 2) Code Citation: 35 Ill. Adm. Code 725
- 3) Section Numbers: Proposed Action:
725.101 Amended
- 4) Statutory Authority: [415 ILCS 5/22.23a and 27]

5) A Complete Description of the Subjects and Issues Involved: A more complete description of this regulation may be found in the Board's opinion and order of November 6, 1997, in R98-12. On August 19, 1997, Governor Jim Edgar signed into law Public Act 90-502 (PA 90-502, effective August 19, 1997 (amended 415 ILCS 5/22.23a)). This legislation specifically designated high intensity discharge lamps and fluorescent lamps, which were classified as hazardous waste, as a category of universal waste. It further required the Illinois Environmental Protection Agency (Agency) to propose implementing regulations to the Board within 60 days after the effective date of the Public Act and for the Board to adopt such regulations within 180 days after receipt of the Agency's proposal. The proposed amendments to Part 733 contain the majority of amendments to the Board's rules needed to designate mercury containing lamps as a category of universal waste. The proposed amendments to Part 725, however, incorporate changes to include mercury containing lamps as a category of universal waste.

6) Will this proposed rule replace an emergency rule currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Policy Objectives: The policy objectives of this rulemaking are those enumerated in Sections 9 and 27 of the Environmental Protection Act. The objective is to protect health and the environment from pollution while providing economically reasonable and technically feasible control options. This is also a rulemaking mandated by Public Act 90-502, which designated high intensity discharge lamps and fluorescent lamps as a category of universal waste. Such designation is intended to reduce the amount of hazardous waste in the municipal solid waste stream, to encourage recycling and proper disposal of common hazardous wastes, and to reduce the regulatory burden on businesses that generate the wastes.

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- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments concerning this rulemaking should reference R98-12 and be sent to:

Dorothy Gunn
Clerk of the Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, IL 60601
312/814-6931

Questions regarding this proposal may be directed to Cynthia Ervin at 217-524-8509.

- 12) Initial Regulatory Flexibility Analysis: This proposal is filed pursuant to the Environmental Protection Act.

A) Types of small businesses affected: Any small business which handles mercury containing lamps.

B) Reporting, bookkeeping, or other procedures required for compliance: The proposed amendments will eliminate the need for handlers of mercury containing lamps to make and submit to the Agency manifests and other reports. Currently, handlers and transporters of hazardous wastes must meet extensive manifesting and recordkeeping requirements, many of which are reported to and tracked by the Agency. The proposed regulations reduce these requirements with respect to mercury containing lamps.

C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, or registered professional engineer.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the Proposed Rule(s) begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 725

INTERIM STATUS STANDARDS FOR OWNERS AND
OPERATORS OF HAZARDOUS WASTE TREATMENT,
STORAGE, AND DISPOSAL FACILITIES

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Purpose, Scope and Applicability
Imminent Hazard Action

SUBPART B: GENERAL FACILITY STANDARDS

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725.104

Section
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Security
General Inspection Requirements
Personnel Training
General Requirements for Ignitable, Reactive, or Incompatible Wastes
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SUBPART C: PREPAREDNESS AND PREVENTION

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Access to Communications or Alarm System
Required Aisle Space
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Purpose and Implementation of Contingency Plan
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Copies of Contingency Plan

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 725.155 Emergency Coordinator
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SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

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 725.170 Applicability
 725.171 Use of Manifest System
 725.172 Manifest Discrepancies
 725.173 Operating Record
 725.174 Availability, Retention and Disposition of Records
 725.175 Annual Report
 725.176 Unmanifested Waste Report
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SUBPART F: GROUNDWATER MONITORING

Section
 725.190 Applicability
 725.191 Groundwater Monitoring System
 725.192 Sampling and Analysis
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SUBPART G: CLOSURE AND POST-CLOSURE

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 725.210 Applicability
 725.211 Closure Performance Standard
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 725.213 Closure; Time Allowed for Closure
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SUBPART H: FINANCIAL REQUIREMENTS

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 725.240 Applicability
 725.241 Definitions of Terms as Used in this Subpart
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 725.271 Condition of Containers
 725.272 Compatibility of Waste with Container
 725.273 Management of Containers
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 725.290 Applicability
 725.291 Assessment of Existing Tank System's Integrity
 725.292 Design and Installation of New Tank Systems or Components
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SUBPART W: DRIP PADS

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725.981	Definitions
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725.983	Standards: General
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APPENDIX D	Tests for Significance
APPENDIX E	Examples of Potentially Incompatible Waste

AUTHORITY: Implementing Sections 22.4 and 22.23a and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/22.4, 22.23a and 27].

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22, 45 PCB 317, at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18, 51 PCB 831, at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19, 53 PCB 131, at 7 Ill. Reg. 14034, effective October 12, 1983; amended in R84-9, at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338, effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13097, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11078, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 21 Ill. Reg. _____, effective _____; amended in R98-12 at 22 Ill. Reg. _____, effective _____.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets; and SUM means the summation series or sigma function as used in mathematics.

SUBPART A: GENERAL PROVISIONS

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Section 725.101 Purpose, Scope and Applicability

a) The purpose of this Part is to establish minimum standards that define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

b) Except as provided in Section 725.980(b), the standards in this Part and 35 Ill. Adm. Code 724.652 and 724.653 apply to owners and operators of facilities that treat, store, or dispose of hazardous waste that have fully complied with the requirements for interim status under Section 3005(e) of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901 et seq.) and 35 Ill. Adm. Code 703, until either a permit is issued under Section 3005 of the Resource Conservation and Recovery Act or Section 21(f) of the Environmental Protection Act, or until applicable closure and post-closure responsibilities under this Part are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980, that have failed to provide timely notification as required by Section 3010(a) of RCRA or that have failed to file Part A of the Permit Application, as required by 40 CFR 270.10(e) and (g) or 35 Ill. Adm. Code 703.150 and 703.152. These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities after November 19, 1980, except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721.

BOARD NOTE: As stated in Section 3005(a) of RCRA, after the effective date of regulations under that Section (i.e., 40 CFR 270 and 124) the treatment, storage, or disposal of hazardous waste is prohibited except in accordance with a permit. Section 3005(e) of RCRA provides for the continued operation of an existing facility that meets certain conditions until final administrative disposition of the owner's and operator's permit application is made. 35 Ill. Adm. Code 703.140 et seq. provide that a permit is deemed issued under Section 21(f)(1) of the Environmental Protection Act under conditions similar to federal interim status.

c) The requirements of this Part do not apply to:

1) A person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research and Sanctuaries Act (16 U.S.C. 1431-1434; 33 U.S.C. 1401);

BOARD NOTE: This Part applies to the treatment or storage of hazardous waste before it is loaded into an ocean vessel for incineration or disposal at sea, as provided in subsection (b).

3) The owner or operator of a POTW (publicly owned treatment works) that treats, stores or disposes of hazardous waste;

BOARD NOTE: The owner or operator of a facility under subsections (c)(1) through (c)(3) is subject to the requirements of 35 Ill. Adm. Code 724 to the extent they are included in a permit by rule granted to such a person under 35 Ill. Adm. Code

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702 and 703 or are required by 35 Ill. Adm. Code 704.Subpart F. 5) The owner or operator of a facility permitted, licensed, or registered by Illinois to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this Part by 35 Ill. Adm. Code 721.105;

6) The owner or operator of a facility managing recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2) through (a)(4), except to the extent that requirements of this Part are referred to in 35 Ill. Adm. Code 726.Subparts C, F, G, or H or 35 Ill. Adm. Code 739;

7) A generator accumulating waste on-site in compliance with 35 Ill. Adm. Code 722.134, except to the extent the requirements are included in 35 Ill. Adm. Code 722.134;

8) A farmer disposing of waste pesticides from the farmer's own use in compliance with 35 Ill. Adm. Code 722.170;

9) The owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110;

10) The owner or operator of an elementary neutralization unit or a waste water treatment unit as defined in 35 Ill. Adm. Code 720.110, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 35 Ill. Adm. Code 728.Tablet or reactive (D003) waste in order to remove the characteristic before land disposal, the owner or operator must comply with the requirements set out in Section 725.117(b);

11) Immediate response:

A) Except as provided in subsection (c)(11)(B) below, a person engaged in treatment or containment activities during immediate response to any of the following situations:

- i) A discharge of a hazardous waste;
- ii) An imminent and substantial threat of a discharge of a hazardous waste;
- iii) A discharge of a material that becomes a hazardous waste when discharged.

B) An owner or operator of a facility otherwise regulated by this Part must comply with all applicable requirements of 725.Subparts C and D.

C) Any person that is covered by subsection (c)(11)(A) above that continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and 35 Ill. Adm. Code 702, 703, and 705 for those activities;

12) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less;

13) The addition of absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) or the addition of waste to

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the absorbent material in a container, provided that these actions occur at the time that the waste is first placed in the containers and Sections 725.117(b), 725.271, and 725.272 are complied with;

- 14) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that handles any of the wastes listed below is subject to regulation under 35 Ill. Adm. Code 733 when handling the following universal wastes:
 - A) Batteries, as described in 35 Ill. Adm. Code 733.102;
 - B) Pesticides, as described in 35 Ill. Adm. Code 733.103; and
 - C) Thermostats, as described in 35 Ill. Adm. Code 733.104; and
 - D) Mercury-containing lamps, as described in 35 Ill. Adm. Code 733.107.

BOARD NOTE: Subsection (c)(14)(D) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5.22.23a], as amended by P.A. 90-502, effective August 19, 1997.

- d) The following hazardous wastes must not be managed at facilities subject to regulation under this Part: hazardous waste numbers F021, F021, F022, F023, F026, or F027 unless:

- 1) The waste water treatment sludge is generated in a surface impoundment as part of the plant's waste water treatment system;
- 2) The waste is stored in tanks or containers;
- 3) The waste is stored or treated in waste piles that meet the requirements of 35 Ill. Adm. Code 724.350(c) and all other applicable requirements of 725.Subpart L;
- 4) The waste is burned in incinerators that are certified pursuant to the standards and procedures in Section 725.452; or
- 5) The waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in Section 725.483.

- e) This Part applies to owners and operators of facilities that treat, store, or dispose of hazardous wastes referred to in 35 Ill. Adm. Code 728, and the 35 Ill. Adm. Code 728 standards are considered material conditions or requirements of the interim status standards of this Part.

- f) Other bodies of regulations may apply a person, facility, or activity, such as 35 Ill. Adm. Code 809 (special waste hauling), 35 Ill. Adm. Code 807 or 810 through 817 (solid waste landfills), 35 Ill. Adm. Code 848 or 849 (used and scrap tires), or 35 Ill. Adm. Code 1420 through 1422 (potentially ~~potentially~~ infectious medical waste), depending on the provisions of those other regulations.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Land Disposal Restriction

- 2) Code Citation: 35 Ill. Adm. Code 728

- 3) Section Numbers: Proposed Action:
728.101 Amended

- 4) Statutory Authority: 415 ILCS 5/22.23a and 27

- 5) A Complete Description of the Subjects and Issues Involved: A more complete description of this regulation may be found in the Board's opinion and order of November 6, 1997, in R98-12. On August 19, 1997, Governor Jim Edgar signed into law Public Act 90-502 (PA 90-502, effective August 19, 1997 (amended 415 ILCS 5/22.23a)). This legislation specifically designated high intensity discharge lamps and fluorescent lamps, which were classified as hazardous waste, as a category of universal waste. It further required the Illinois Environmental Protection Agency (Agency) to propose implementing regulations to the Board within 60 days after the effective date of the Public Act and for the Board to adopt such regulations within 180 days after receipt of the Agency's proposal. The proposed amendments to Part 733 contain the majority of amendments to the Board's rules needed to designate mercury containing lamps as a category of universal waste. The proposed amendments to Part 728, however, incorporate changes to include mercury containing lamps as a category of universal waste.

- 6) Will this proposed rule replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed rule contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Policy Objectives: The policy objectives of this rulemaking are those enumerated in Sections 9 and 27 of the Environmental Protection Act. The objective is to protect health and the environment from pollution while providing economically reasonable and technically feasible control options. This is also a rulemaking mandated by Public Act 90-502, which designated high intensity discharge lamps and fluorescent lamps as a category of universal waste. Such designation is intended to reduce the amount of hazardous waste in the municipal solid waste stream, to encourage recycling and proper disposal of common hazardous wastes, and to reduce the regulatory burden on businesses that generate the wastes.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments concerning this rulemaking should reference R98-12 and be sent to:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Dorothy Gunn
Clerk of the Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, IL 60601
312/814-6931

Questions regarding this proposal may be directed to Cynthia Ervin at 217-524-8509.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Any small business which handles mercury containing lamps.

B) Reporting, bookkeeping, or other procedures required for compliance: The proposed amendments will eliminate the need for handlers of mercury containing lamps to make and submit to the Agency manifests and other reports. Currently, handlers and transporters of hazardous wastes must meet extensive manifesting and recordkeeping requirements, many of which were reported to and tracked by the Agency. The proposed regulations reduce these requirements with respect to mercury containing lamps.

C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, or registered professional engineer.

13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the Proposed Amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 728

LAND DISPOSAL RESTRICTIONS

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Section	Purpose, Scope and Applicability
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728.102	Dilution Prohibited as a Substitute for Treatment
728.103	Treatment Surface Impoundment Exemption
728.104	Procedures for case-by-case Extensions to an Effective Date
728.105	Petitions to Allow Land Disposal of a Waste Prohibited under Subpart C
728.106	Waste Analysis and Recordkeeping
728.107	Landfill and Surface Impoundment Disposal Restrictions (Repealed)
728.108	Special Rules for Characteristic Wastes
728.109	

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Section	
728.110	First Third
728.111	Second Third
728.112	Third Third
728.113	Newly Listed Wastes
728.114	Surface Impoundment exemptions

SUBPART C: PROHIBITION ON LAND DISPOSAL

Section	
728.130	Waste Specific Prohibitions -- Solvent Wastes
728.131	Waste Specific Prohibitions -- Dioxin-Containing Wastes
728.132	Waste Specific Prohibitions -- California List Wastes
728.133	Waste Specific Prohibitions: First Third Wastes
728.134	Waste Specific Prohibitions -- Second Third Wastes
728.135	Waste Specific Prohibitions -- Third Third Wastes
728.136	Waste Specific Prohibitions -- Newly Listed Wastes
728.137	Waste Specific Prohibitions -- Ignitable and Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated
728.138	Waste-Specific Prohibitions: Newly-Identified Organic Toxicity Characteristic Wastes and Newly-Listed Coke By-Product and Chlorotoluene Production Wastes
728.139	Statutory Prohibitions

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SUBPART D: TREATMENT STANDARDS

Section	
728.140	Applicability of Treatment Standards
728.141	Treatment Standards Expressed as Concentrations in Waste Extract
728.142	Treatment Standards Expressed as Specified Technologies
728.143	Treatment Standards Expressed as Waste Concentrations
728.144	Adjustment of Treatment Standard
728.145	Treatment Standards for Hazardous Debris
728.146	Alternative Treatment Standards Based on HTMR
728.148	Universal Treatment Standards

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Section	
728.150	Prohibitions on Storage of Restricted Wastes
APPENDIX A	Toxicity Characteristic Leaching Procedure (TCLP)
APPENDIX B	Treatment Standards (As concentrations in the Treatment Residual Extract)
APPENDIX C	List of Halogenated Organic Compounds
APPENDIX D	Wastes Excluded from Lab Packs
APPENDIX E	Organic Lab Packs (Repealed)
APPENDIX F	Technologies to Achieve Deactivation of Characteristics
APPENDIX G	Federal Effective Dates
APPENDIX H	National Capacity LDR Variances for UIC Wastes
APPENDIX I	EP Toxicity Test Method and Structural Integrity Test
APPENDIX J	Recordkeeping, Notification, and Certification Requirements
TABLE A	Constituent Concentrations in Waste Extract (CCWE)
TABLE B	Constituent Concentrations in Wastes (CCW)
TABLE C	Technology Codes and Description of Technology-Based Standards
TABLE D	Technology-Based Standards by RCRA Waste Code
TABLE E	Standards for Radioactive Mixed Waste
TABLE F	Alternative Treatment Standards for Hazardous Debris
TABLE G	Alternative Treatment Standards Based on HMTR
TABLE H	Wastes Excluded from CCW Treatment Standards
TABLE T	Treatment Standards for Hazardous Wastes
TABLE U	Universal Treatment Standards (UTS)

AUTHORITY: Implementing Section 22.4 and 22.23a and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/22.4, 22.23a and 27].

SOURCE: Adopted in R87-5 at 11 Ill. Reg. 19354, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13046, effective July 29, 1988; amended in R89-1 at 13 Ill. Reg. 18403, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6232, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14470, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16508,

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effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9462, effective June 17, 1991; amended in R90-11 at 15 Ill. Reg. 11937, effective August 12, 1991; amendment withdrawn at 15 Ill. Reg. 14716, October 11, 1991; amended in R91-13 at 16 Ill. Reg. 9619, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5727, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20692, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6799, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12203, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17563, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9660, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11100, effective August 1, 1996; amended in R98-12 at 22 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 728.101 Purpose, Scope and Applicability

- a) This Part identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.
- b) Except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721, the requirements of this Part apply to persons that generate or transport hazardous waste treatment, storage, and disposal facilities.
- c) Restricted wastes may continue to be land disposed as follows:
 - 1) Where persons have been granted an extension to the effective date of a prohibition under Subpart C or pursuant to Section 728.105, with respect to those wastes covered by the extension;
 - 2) Where persons have been granted an exemption from a prohibition pursuant to a petition under Section 728.106, with respect to those wastes and units covered by the petition;
 - 3) Wastes that are hazardous only because they exhibit a hazardous characteristic and that are otherwise prohibited from land disposal under this Part are not prohibited from land disposal if the wastes:
 - A) Are disposed into a nonhazardous or hazardous waste injection well, as defined in 35 Ill. Adm. Code 704.106(a);
 - B) Do not exhibit any prohibited characteristic of hazardous waste at the point of injection; and
 - C) If, at the point of generation, the injected wastes include D001 High TOC subcategory wastes of D012-D017 pesticide wastes that are prohibited under Section 728.117(c), those wastes have been treated to meet the treatment standards of Section 728.140 prior to injection.
- d) This Part does not affect the availability of a waiver under Section 121(d)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 U.S.C. Sections 9601 et seq.).
- e) The following hazardous wastes are not subject to any provision of this Part:

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NOTICE OF PROPOSED AMENDMENTS

- 1) Wastes generated by small quantity generators of less than 100 kg of non-acute hazardous waste or less than 1 kg of acute hazardous waste per month, as defined in 35 Ill. Adm. Code 721.105;
- 2) Waste pesticides that a farmer disposes of pursuant to 35 Ill. Adm. Code 722.170;
- 3) Wastes identified or listed as hazardous after November 8, 1984, for which USFPA has not promulgated land disposal prohibitions or treatment standards;
- 4) De minimis losses to wastewater treatment systems of commercial chemical product or chemical intermediates that are ignitable (D001) or corrosive (D002) or that are organic constituents that exhibit the characteristic of toxicity (D012-D043) and that contain underlying hazardous constituents, as defined in Section 728.102 of this Part, are not considered to be prohibited wastes. "De minimis" is defined as losses from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers or leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purging; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinseate from empty containers or from containers that are rendered empty by that rinsing;
- 5) Land disposal prohibitions for hazardous characteristic wastes do not apply to laboratory wastes displaying the characteristic of ignitability (D001), corrosivity (D002), or organic toxicity (D012 through D043) that are mixed with other plant wastewaters at facilities whose ultimate discharge is subject to regulations under the CWA (including wastewaters at facilities that have eliminated the discharge of wastewater), provided that the annulized flow of laboratory wastewater into the facility's headwork does not exceed one percent or that the laboratory wastes' combined annulized average concentration does not exceed one part per million in the facility's headworks.
 - f) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) is exempt from Sections 728.107 and 728.150 for the hazardous wastes listed below. Such a handler or transporter is subject to regulation under 35 Ill. Adm. Code 733.
 - 1) Batteries, as described in 35 Ill. Adm. Code 733.102;
 - 2) Pesticides, as described in 35 Ill. Adm. Code 733.103; and
 - 3) Thermostats, as described in 35 Ill. Adm. Code 733.104; and
 - 4) Mercury-containing lamps, as described in 35 Ill. Adm. Code 733.107.

BOARD NOTE: Subsection (f)(4) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

- g) This Part is cumulative with the land disposal restrictions of 35 Ill.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Adm. Code 729. The Environmental Protection Agency (Agency) shall not issue a wastestream authorization pursuant to 35 Ill. Adm. Code 709 or Sections 22.6 or 39(h) of the Environmental Protection Act [415 ILCS 5/22.6 or 39(h)] unless the waste meets the requirements of this Part as well as 35 Ill. Adm. Code 729.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: RCRA Permit Program

2) Code Citation: 35 Ill. Adm. Code 703

3) Section Numbers: Proposed Action:
703.123 Amended

4) Statutory Authority: 415 ILCS 5/22.23a and 27

5) A Complete Description of the Subjects and Issues Involved: A more complete description of this regulation may be found in the Board's opinion and order of November 6, 1997, in R98-12. On August 19, 1997, Governor Jim Edgar signed into law Public Act 90-502 (PA 90-502, effective August 19, 1997 (amended 415 ILCS 5/22.23a). This legislation specifically designated high intensity discharge lamps and fluorescent lamps, which were classified as hazardous waste, as a category of universal waste. It further required the Illinois Environmental Protection Agency (Agency) to propose implementing regulations to the Board within 60 days after the effective date of the Public Act and for the Board to adopt such regulations within 180 days after receipt of the Agency's proposal. The proposed amendments to Part 733 contain the majority of amendments to the Board's rules needed to designate mercury containing lamps as a category of universal waste. The proposed amendments to Part 703, however, incorporate changes to include mercury containing lamps as a category of universal waste.

6) Will this proposed rule replace an emergency rule currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Policy Objectives: The policy objectives of this rulemaking are those enumerated in Section 9 and 27 of the Environmental Protection Act. The objective is to protect health and the environment from pollution while providing economically reasonable and technically feasible control options. This is also a rulemaking mandated by Public Act 90-502, which designated high intensity discharge lamps and fluorescent lamps as a category of universal waste. Such designation is intended to reduce the amount of hazardous waste in the municipal solid waste stream, to encourage recycling and proper disposal of common hazardous wastes, and to reduce the regulatory burden on businesses that generate the wastes.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments concerning this rulemaking should

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

reference R98-12 and be sent to:

Dorothy Gunn
Clerk of the Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, IL 60601
312/814-6931

Questions regarding this proposal may be directed to Cynthia Ervin at 217-524-8509.

12) Initial Regulatory Flexibility Analysis:

This proposal is filed pursuant to the Environmental Protection Act.

A) Types of small businesses affected: Any small business which handles mercury containing lamps.

B) Reporting, bookkeeping, or other procedures required for compliance: The proposed amendments will eliminate the need for handlers of mercury containing lamps to make and submit to the Agency manifests and other reports. Currently, handlers and transporters of hazardous wastes must meet extensive manifesting and recordkeeping requirements, many of which were reported to and tracked by the Agency. The proposed regulations reduce these requirements with respect to mercury containing lamps.

C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, or registered professional engineer.

13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the Proposed Rule(s) begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER b: PERMITS

PART 703

RCRA PERMIT PROGRAM

SUBPART A: GENERAL PROVISIONS

Section

703.100 Scope and Relation to Other Parts
703.101 Purpose
703.110 References

SUBPART B: PROHIBITIONS

Section

703.120 Prohibitions in General
703.121 RCRA Permits
703.122 Specific Inclusions in Permit Program
703.123 Specific Exclusions from Permit Program
703.124 Discharges of Hazardous Waste
703.125 Reapplications
703.126 Initial Applications
703.127 Federal Permits (Repealed)

SUBPART C: AUTHORIZATION BY RULE AND INTERIM STATUS

Section

703.140 Purpose and Scope
703.141 Permits by Rule
703.150 Application by Existing HWM Facilities and Interim Status Qualifications
703.151 Application by New HWM Facilities
703.152 Amended Part A Application
703.153 Qualifying for Interim Status
703.154 Prohibitions During Interim Status
703.155 Changes During Interim Status
703.156 Interim Status Standards
703.157 Grounds for Termination of Interim Status
703.158 Permits for Less Than an Entire Facility
703.159 Closure by Removal
703.160 Procedures for Closure Determination

SUBPART D: APPLICATIONS

Section

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

703.180 Applications in General

703.181 Contents of Part A

703.182 Contents of Part B

703.183 General Information

703.184 Facility Location Information

703.185 Groundwater Protection Information

703.186 Exposure Information

703.187 Solid Waste Management Units

703.188 Other Information

703.200 Specific Part B Application Information

703.201 Containers

703.202 Tank Systems

703.203 Surface Impoundments

703.204 Waste Piles

703.205 Incinerators that Burn Hazardous Waste

703.206 Land Treatment

703.207 Landfills

703.208 Boilers and Industrial Furnaces Burning Hazardous Waste

703.209 Miscellaneous Units

703.210 Process Vents

703.211 Equipment

703.212 Drip Pads

703.213 Air Emission Controls for Tanks, Surface Impoundments, and Containers

SUBPART E: SHORT TERM AND PHASED PERMITS

Section

703.221 Emergency Permits

703.222 Incinerator Conditions Prior to Trial Burn

703.223 Incinerator Conditions During Trial Burn

703.224 Incinerator Conditions After Trial Burn

703.225 Trial Burns for Existing Incinerators

703.230 Land Treatment Demonstration

703.231 Research, Development and Demonstration Permits

703.232 Permits for Boilers and Industrial Furnaces Burning Hazardous Waste

SUBPART F: PERMIT CONDITIONS OR DENIAL

Section

703.240 Permit Denial

703.241 Establishing Permit Conditions

703.242 Noncompliance Pursuant to Emergency Permit

703.243 Monitoring

703.244 Notice of Planned Changes (Repealed)

703.245 Twenty-four Hour Reporting

703.246 Reporting Requirements

703.247 Anticipated Noncompliance

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SUBPART G: CHANGES TO PERMITS

Section	Transfer
703.260	Modification
703.270	Causes for Modification
703.271	Causes for Modification or Reissuance
703.272	Facility Siting
703.273	Permit Modification at the Request of the Permittee
703.280	Class 1 Modifications
703.281	Class 2 Modifications
703.282	Class 3 Modifications
703.283	

APPENDIX A Classification of Permit Modifications

AUTHORITY: Implementing Section 22.4 and 22.23a and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/22.4, 22.23a and 27].

SOURCE: Adopted in R82-19, 53 PCB 131, at 7 Ill. Reg. 14289, effective October 12, 1983; amended in R83-24 at 8 Ill. Reg. 206, effective December 27, 1983; amended in R84-9 at 9 Ill. Reg. 11899, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1110, effective January 2, 1986; amended in R85-23 at 10 Ill. Reg. 13284, effective July 28, 1986; amended in R86-1 at 10 Ill. Reg. 14093, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20702, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6121, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13543, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 13983, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 13069, effective July 29, 1988; amended in R87-39 at 12 Ill. Reg. 13069, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 447, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18477, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6278, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14492, effective August 22, 1990; amended in R90-11 at 15 Ill. Reg. 9616, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14554, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9767, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5774, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20794, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6898, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12392, effective July 29, 1994; amended in R94-5 at 18 Ill. Reg. 18316, effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9920, effective June 27, 1995; amended at R95-20 at 20 Ill. Reg. 11225, effective August 1, 1996; amended in R98-12 at 22 Ill. Reg. _____, effective _____.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

SUBPART B: PROHIBITIONS

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 703.123 Specific Exclusions from Permit Program

The following persons are among those who are not required to obtain a RCRA permit:

- Generators who accumulate hazardous waste on-site for less than the time periods provided in 35 Ill. Adm. Code 722.134;
- Farmers who dispose of hazardous waste pesticides from their own use as provided in 35 Ill. Adm. Code 722.170;
- Persons who own or operate facilities solely for the treatment, storage or disposal of hazardous waste excluded from regulations under this Part by 35 Ill. Adm. Code 721.104 or 721.105 (small generator exemption);
- Owners or operators of totally enclosed treatment facilities as defined in 35 Ill. Adm. Code 720.110;
- Owners and operators of elementary neutralization units or wastewater treatment units as defined in 35 Ill. Adm. Code 720.110;
- Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less;
- Persons adding absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and 35 Ill. Adm. Code 724.117(b), 724.271 and 724.272 are complied with; and
- A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that manages the wastes listed below. Such a handler or transporter is subject to regulation under 35 Ill. Adm. Code 733.
 - Batteries, as described in 35 Ill. Adm. Code 733.102;
 - Pesticides, as described in 35 Ill. Adm. Code 733.103; and
 - Thermostats, as described in 35 Ill. Adm. Code 733.104; and
 - Mercury-containing lamps, as described in 35 Ill. Adm. Code 733.107.

BOARD NOTE: Derived from 40 CFR 270.1(c)(2) (1996) (+994)77-es amended-at-69-Ped+Reg-255427-May-17-1995. Subsection (h)(4) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see PA 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Hazardous Waste Management System: General
- 2) Code Citation: 35 Ill. Adm. Code 720
- 3) Section Numbers: Proposed Action:
720.110 Amended
- 4) Statutory Authority: 415 ILCS 5/22.23a and 27
- 5) A Complete Description of the Subjects and Issues Involved: A more complete description of this regulation may be found in the Board's opinion and order of November 6, 1997, in R98-12. On August 19, 1997, Governor Jim Edgar signed into law Public Act 90-502 (PA 90-502, effective August 19, 1997 (amended 415 ILCS 5/22.23a)). This legislation specifically designated high intensity discharge lamps and fluorescent lamps, which were classified as hazardous waste, as a category of universal waste. It further required the Illinois Environmental Protection Agency (Agency) to propose implementing regulations to the Board within 60 days after the effective date of the Public Act and for the Board to adopt such regulations within 180 days after receipt of the Agency's proposal. The proposed amendments to Part 733 contain the majority of amendments to the Board's rules needed to designate mercury containing lamps as a category of universal waste. The proposed amendments to Part 720, however, incorporate changes to include mercury containing lamps as a category of universal waste.
- 6) Will this proposed rule replace an emergency rule currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rule contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No

10) Statement of Policy Objectives: The policy objectives of this rulemaking are those enumerated in Sections 9 and 27 of the Environmental Protection Act. The objective is to protect health and the environment from pollution while providing economically reasonable and technically feasible control options. This is also a rulemaking mandated by Public Act 90-502, which designated high intensity discharge lamps and fluorescent lamps as a category of universal waste. Such designation is intended to reduce the amount of hazardous waste in the municipal solid waste stream, to encourage recycling and proper disposal of common hazardous wastes, and to reduce the regulatory burden on businesses that generate the wastes.

11) Time, Place, and Manner in which interested persons may comment on this

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Proposed rulemaking: Written comments concerning this rulemaking should reference R98-12 and be sent to:

Dorothy Gunn
Clerk of the Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, IL 60601
312/814-6931

Questions regarding this proposal may be directed to Cynthia Ervin at 217-524-8509.

12) Initial Regulatory Flexibility Analysis: This proposal is filed pursuant to the Environmental Protection Act.

A) Types of small businesses affected: Any small business which handles mercury containing lamps.

B) Reporting, bookkeeping, or other procedures required for compliance: The proposed amendments will eliminate the need for handlers of mercury-containing lamps to make and submit to the Agency manifests and other reports. Currently, handlers and transporters of hazardous wastes must meet extensive manifesting and recordkeeping requirements, many of which are reported to and tracked by the Agency. The proposed regulations reduce these requirements with respect to mercury-containing lamps.

C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, or registered professional engineer.

13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the Proposed Rule(s) begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 720

HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

Section

720.101 Purpose, Scope and Applicability

720.102 Availability of Information; Confidentiality of Information

720.103 Use of Number and Gender

SUBPART B: DEFINITIONS

Section

720.110 Definitions

720.111 References

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section

720.120 Rulemaking

720.121 Alternative Equivalent Testing Methods

720.122 Waste Delisting

720.123 Petitions for Regulation as Universal Waste

720.130 Procedures for Solid Waste Determinations

720.131 Solid Waste Determinations

720.132 Boiler Determinations

720.133 Procedures for Determinations

720.140 Additional regulation of certain hazardous waste Recycling Activities

On a case-by-case Basis

720.141 Procedures for case-by-case regulation of hazardous waste Recycling

Activities

APPENDIX A Overview of 40 CFR, Subtitle C Regulations

AUTHORITY: Implementing Sections 22.4 and 22.23a and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/22.4, 22.23a, and 27].

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22, 45 PCB 317, at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-19 at 7 Ill. Reg. 14015, effective Oct. 12, 1983; amended in R84-9, 53 PCB 131 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in

POLLUTION CONTROL BOARD

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R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9489, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17636, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5625, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20545, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6720, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12160, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17480, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9508, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10929, effective August 1, 1996; amended in R98-12 at 22 Ill. Reg. _____, effective _____.

SUBPART B: DEFINITIONS

Section 720.110 Definitions

When used in 35 Ill. Adm. Code 720 through 726 and 728 only, the following terms have the meanings given below:

"Aboveground tank" means a device meeting the definition of "tank" that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

"Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901 et seq.)

"Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the Agency receives certification of final closure.

"Active portion" means that portion of a facility where treatment, storage or disposal operations are being or have been conducted after May 19, 1980, and which is not a closed portion. (See also "closed portion" and "inactive portion".)

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"Administrator" means the Administrator of the U.S. Environmental Protection Agency or the Administrator's designee.

"Agency" means the Illinois Environmental Protection Agency.

"Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves and pumps, that is used to distribute, meter or control the flow of hazardous waste from its point of generation to storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

"Aquifer" means a geologic formation, group of formations or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

"Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent or person of equivalent responsibility.

"Battery" means a device consisting of one or more electrically connected electrochemical cells that is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Board" means the Illinois Pollution Control Board.

"Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids or heated gases; and the unit's combustion chamber and primary energy recovery Section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery Section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery Section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery Section.

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The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

The unit is one which the Board has determined, on a case-by-case basis, to be a boiler, after considering the standards in Section 720.132.

"Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

"Certification" means a statement of professional opinion based upon knowledge and belief.

"Closed Portion" means that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion".)

"Component" means either the tank or ancillary equipment of a tank system.

"Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined groundwater.

"Container" means any portable device in which a material is stored, transported, treated, disposed of or otherwise handled.

"Containment Building" means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of 35 Ill. Adm. Code 724.Subpart DD and 35 Ill. Adm. Code 725.Subpart DD.

"Contingency plan" means a document setting out an organized, planned and coordinated course of action to be followed in case of a fire,

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explosion or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

"Corrective action management unit" or "CAMU" means an area within a facility that is designated by the Agency under 35 Ill. Adm. Code 724.Subpart S for the purpose of implementing corrective action requirements under 35 Ill. Adm. Code 724.201 and RCRA section 3008(h). A CAMU shall only be used for the management of remediation wastes pursuant to implementing such corrective action requirements at the facility.

BOARD NOTE: USEPA must also designate a CAMU until it grants this authority to the Agency. See the note following 35 Ill. Adm. Code 724.652.

"Corrosion expert" means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

"Designated facility" means a hazardous waste treatment, storage or disposal facility,

Which:

Has received a RCRA permit (or interim status) pursuant to 35 Ill. Adm. Code 702, 703 and 705;

Has received a RCRA permit from USEPA pursuant to 40 CFR 124 and 270 (1992);

Has received a RCRA permit from a state authorized by USEPA pursuant to 40 CFR 271 (1992); or

Is regulated under 35 Ill. Adm. Code 721.106(c)(2) or 266.Subpart F; and

Which has been designated on the manifest by the generator pursuant to 35 Ill. Adm. Code 722.120.

If a waste is destined to a facility in a state, other than Illinois, which has been authorized by USEPA pursuant to 40 CFR 271, but which has not yet obtained authorization to regulate

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that waste as hazardous, then the designated facility must be a facility allowed by the receiving state to accept such waste.

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in 35 Ill. Adm. Code 733.113(a) and (c) and 733.133(a) and (c). A facility at which a particular category of universal waste is only accumulated is not a destination facility for the purposes of managing that category of universal waste.

"Dike" means an embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids or other materials.

"Director" means the Director of the Illinois Environmental Protection Agency.

"Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous waste into or on any land or water.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure. The term disposal facility does not include a corrective action management unit (CAMU) into which remediation wastes are placed.

"Drip pad" means an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation and surface water run-on to an associated collection system at wood preserving plants.

"Electric lamp" means the bulb or tube portion of a lighting device specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infrared regions of the electromagnetic spectrum.

BOARD NOTE: The definition of "electric lamp" was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

"Elementary neutralization unit" means a device which:

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Is used for neutralizing wastes which are hazardous only because they exhibit the corrosivity characteristic defined in 35 Ill. Adm. Code 721.122 or are listed in 35 Ill. Adm. Code 721.Subpart D only for this reason; and

Meets the definition of tank, tank system, container, transport vehicle or vessel in this Section.

"EPA hazardous waste number" or "USEPA hazardous waste number" or "~~USEPA--hazardous--waste--number~~" means the number assigned by EPA to each hazardous waste listed in 35 Ill. Adm. Code 721.Subpart D and to each characteristic identified in 35 Ill. Adm. Code 721.Subpart C.

"EPA identification number" or "USEPA identification number" or "~~USEPA identification--number~~" means the number assigned by USEPA pursuant to 35 Ill. Adm. Code 722 through 725 to each generator, transporter and treatment, storage or disposal facility.

"EPA region" or "USEPA region" means the states and territories found in any one of the following ten regions:

Region I: Maine, Vermont, New Hampshire, Massachusetts, Connecticut and Rhode Island

Region II: New York, New Jersey, Commonwealth of Puerto Rico and the U.S. Virgin Islands

Region III: Pennsylvania, Delaware, Maryland, West Virginia, Virginia and the District of Columbia

Region IV: Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina and Florida

Region V: Minnesota, Wisconsin, Illinois, Michigan, Indiana and Ohio

Region VI: New Mexico, Oklahoma, Arkansas, Louisiana and Texas

Region VII: Nebraska, Kansas, Missouri and Iowa

Region VIII: Montana, Wyoming, North Dakota, South Dakota, Utah and Colorado

Region IX: California, Nevada, Arizona, Hawaii, Guam, American Samoa and Commonwealth of the Northern Mariana Islands

Region X: Washington, Oregon, Idaho and Alaska

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"Equivalent method" means any testing or analytical method approved by the Board pursuant to Section 720.120.

"Existing hazardous waste management (HWM) facility" or "existing facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility had commenced construction if the owner or operator had obtained the federal, state and local approvals or permits necessary to begin physical construction and either:

A continuous on-site, physical construction program had begun or

The owner or operator had entered into contractual obligations -- which could not be canceled canceled or modified without substantial loss -- for physical construction of the facility to be completed within a reasonable time.

"Existing portion" means that land surface area of an existing waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

"Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, State and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either:

A continuous on-site physical construction or installation program has begun; or

The owner or operator has entered into contractual obligations -- which cannot be canceled or modified without substantial loss -- for physical construction of the site or installation of the tank system to be completed within a reasonable time.

"Facility" means:

All contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

For the purpose of implementing corrective action under 35 Ill. Adm. Code 724.201, all contiguous property under the control of

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the owner or operator seeking a permit under Subtitle C of RCRA. This definition also applies to facilities implementing corrective action under RCRA Section 3008(h).

"Federal agency" means any department, agency or other instrumentality of the federal government, any independent agency or establishment of the federal government including any government corporation and the Government Printing Office.

"Federal, state, and local approvals or permits necessary to begin physical construction" means permits and approvals required under federal, state, or local hazardous waste control statutes, regulations or ordinances.

"Final closure" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under 35 Ill. Adm. Code 724 and 725 are no longer conducted at the facility unless subject to the provisions of 35 Ill. Adm. Code 722.134.

"Food-chain crops" means tobacco, crops grown for human consumption and crops grown for feed for animals whose products are consumed by humans.

"Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.

"Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

"Generator" means any person, by site, whose act or process produce hazardous waste identified or listed in 35 Ill. Adm. Code 721 or whose act first causes a hazardous waste to become subject to regulation.

"Groundwater" means water below the land surface in a zone of saturation.

"Hazardous waste" means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"Hazardous waste constituent" means a constituent which caused the hazardous waste to be listed in 35 Ill. Adm. Code 721.Subpart D, or a constituent listed in of 35 Ill. Adm. Code 721.124.

"Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in

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the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

"Inactive portion" means that portion of a facility which is not operated after November 19, 1980. (See also "active portion" and "closed portion".)

"Incinerator" means any enclosed device that:

Uses controlled flame combustion and neither:

Meets the criteria for classification as a boiler, sludge dryer or carbon regeneration unit, nor

Is listed as an industrial furnace; or

Meets the definition of infrared incinerator or plasma arc incinerator.

"Incompatible waste" means a hazardous waste which is suitable for:

Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

Comingling with another waste or material under uncontrolled conditions because the comingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes or gases or flammable fumes or gases.

(See 35 Ill. Adm. Code 725.Appendix E for examples.)

"Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy:

Cement kilns

Lime kilns

Aggregate kilns

Phosphate kilns

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Coke ovens

Blast furnaces

Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters and foundry furnaces)

Titanium dioxide chloride process oxidation reactors

Methane reforming furnaces

Pulping liquor recovery furnaces

Combustion devices used in the recovery of sulfur values from spent sulfuric acid

Halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3%, the acid product is used in a manufacturing process and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20%, as generated

Any other such device as the Agency determines to be an "Industrial Furnace" on the basis of one or more of the following factors:

The design and use of the device primarily to accomplish recovery of material products;

The use of the device to burn or reduce raw materials to make a material product;

The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;

The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

The use of the device in common industrial practice to produce a material product; and

Other relevant factors.

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"Individual generation site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

"Infrared incinerator" means any enclosed device which uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Inground tank" means a device meeting the definition of "tank" whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

"In operation" refers to a facility which is treating, storing or disposing of hazardous waste.

"Injection well" means a well into which fluids are being injected. (See also "underground injection".)

"Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

"Installation inspector" means a person who, by reason of knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

"International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

"Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

"Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or corrective action management unit (CAMU).

"Landfill cell" means a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells

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or wastes. Examples of landfill cells are trenches and pits.

"LDS" means leak detection system.

"Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

"Liner" means a continuous layer of natural or manmade materials beneath or on the sides of a surface impoundment, landfill or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents or leachate.

"Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

"Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous waste.

"Manifest" means the shipping document originated and signed by the generator which contains the information required by 35 Ill. Adm. Code 722.Subpart B.

"Manifest document number" means the USEPA twelve digit identification number assigned to the generator plus a unique five digit document number assigned to the manifest by the generator for recording and reporting purposes.

"Mercury-containing lamp" means an electric lamp into which mercury is purposely introduced by the manufacturer for the operation of the lamp. Mercury-containing lamps include, but are not limited to, fluorescent lamps and high-intensity discharge lamps.

BOARD NOTE: The definition of "mercury-containing lamp" was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

"Mining overburden returned to the mine site" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

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"Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored or disposed of and which is not a container, tank, tank system, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 35 Ill. Adm. Code 730, containment building, corrective action management unit (CAMU), or a unit eligible for a research, development and demonstration permit under 35 Ill. Adm. Code 703.231.

"Movement" means that hazardous waste transported to a facility in an individual vehicle.

"New hazardous waste management facility" or "new facility" means a facility which began operation, or for which construction commenced, after November 19, 1980. (See also "Existing hazardous waste management facility".)

"New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation commenced after July 14, 1986; except, however, for purposes of 35 Ill. Adm. Code 724.293(g)(2) and 725.293(g)(2), a new tank system is one for which construction commences after July 14, 1986. (See also "existing tank system".)

"Onground tank" means a device meeting the definition of "tank" that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surfaces so that the external tank bottom cannot be visually inspected.

"On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access is also considered on-site property.

"Open burning" means the combustion of any material without the following characteristics:

Control of combustion air to maintain adequate temperature for efficient combustion;

Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

Control of emission of the gaseous combustion products.

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(See also "incineration" and "thermal treatment".)

"Operator" means the person responsible for the overall operation of a facility.

"Owner" means the person who owns a facility or part of a facility.

"Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of 35 Ill. Adm. Code 724 or 725 at a facility which contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile or other hazardous waste management unit, while other units of the same facility continue to operate.

"Person" means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state or any interstate body.

"Personnel" or "facility personnel" means all persons who work at or oversee the operations of a hazardous waste facility and whose actions or failure to act may result in noncompliance with the requirements of 35 Ill. Adm. Code 724 or 725.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or intended for use as a plant regulator, defoliant, or desiccant, other than any article that fulfills one of the following descriptions:

It is a new animal drug under Section 201(v) of the Federal Food, Drug and Cosmetic Act (FFDCA; 21 U.S.C. Section 321(v)), incorporated by reference in Section 720.111,

It is an animal drug that has been determined by regulation of the Federal Secretary of Health and Human Services pursuant to FFDCA Section 512, incorporated by reference in Section 720.111, to be an exempted new animal drug, or

It is an animal feed under FFDCA Section 201(w) (21 U.S.C. Section 321(w)), incorporated by reference in Section 720.111 that bears or contains any substances described in either of the two preceding subsections of this definition.

BOARD NOTE: The second exception of corresponding 40 CFR 260.10 reads as follows: "Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug". This is very similar to the language of

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Section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 U.S.C. Section 136(u)). The three exceptions, taken together, appear intended not to include as "pesticide" any material within the scope of federal Food and Drug Administration regulation. The Board codified this provision with the intent of retaining the same meaning as its federal counterpart while adding the definiteness required under Illinois law.

"Pile" means any noncontainerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage, and that is not a containment building.

"Plasma arc incinerator" means any enclosed device which uses a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Point source" means any discernible, confined and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

"Publicly owned treatment works" or "POTW" is as defined in 35 Ill. Adm. Code 310.110.

"Qualified groundwater scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields, as demonstrated by state registration, professional certifications or completion of accredited university courses that enable the individual to make sound professional judgments regarding groundwater monitoring and containment fate and transport.

BOARD NOTE: "State registration" includes, but is not limited to, registration as a professional engineer with the Department of Professional Regulation, pursuant to 225 ILCS 325/1 and 68 Ill. Adm. Code 1380. "Professional certification" includes, but is not limited to, certification under the certified ground water professional program of the National Ground Water Association.

"Regional Administrator" means the Regional Administrator for the EPA Region in which the facility is located or the Regional Administrator's designee.

"Remediation waste" means all solid and hazardous wastes, and all

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media (including groundwater, surface water, soils, and sediments) and debris that contain listed hazardous wastes or which themselves exhibit a hazardous waste characteristic which are managed for the purpose of implementing corrective action requirements under 35 Ill. Adm. Code 724.201 and RCRA Section 3008(h). For a given facility, remediation wastes may originate only from within the facility boundary, but may include waste managed in implementing RCRA sections 3004(v) or 3008(h) for releases beyond the facility boundary.

"Replacement unit" means a landfill, surface impoundment or waste pile unit from which all or substantially all of the waste is removed, and which is subsequently reused to treat, store or dispose of hazardous waste. "Replacement unit" does not include a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with a closure or corrective action plan approved by USEPA or the Agency.

"Representative sample" means a sample of a universe or whole (e.g., waste pile, lagoon, groundwater) which can be expected to exhibit the average properties of the universe or whole.

"Runoff" means any rainwater, leachate or other liquid that drains over land from any part of a facility.

"Runon" means any rainwater, leachate or other liquid that drains over land onto any part of a facility.

"Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.

"SIC Code" means Standard Industrial Code as defined in Standard Industrial Classification Manual, incorporated by reference in Section 720.111.

"Sludge" means any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

"Sludge dryer" means any enclosed thermal treatment device which is used to dehydrate sludge and which has a total thermal input, excluding the heating value of the sludge itself, of 2500 Btu/lb or less of sludge treated on a wet weight basis.

"Small Quantity Generator" means a generator which generates less than 1000 kg of hazardous waste in a calendar month.

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"Solid waste" means a solid waste as defined in 35 Ill. Adm. Code 721.102.

"Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both. "Sorb" means to either adsorb or absorb, or both.

"Sump" means any pit or reservoir that meets the definition of tank and those troughs or trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment or disposal facilities; except that, as used in the landfill, surface impoundment and waste pile rules, "sump" means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

"State" means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands.

"Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of or stored elsewhere.

"Surface impoundment" or "impoundment" means a facility or part of a facility which is a natural topographic depression, manmade excavation or diked area formed primarily of earthen materials (although it may be lined with manmade materials) which is designed to hold an accumulation of liquid wastes or wastes containing free liquids and which is not an injection well. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds and lagoons.

"Tank" means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

"Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

"Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation and microwave discharge. (See also "incinerator" and "open burning".)

"Thermostat" means a temperature control device that contains metallic

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mercury in an ampule attached to a bimetal sensing element and mercury-containing ampules that have been removed from such a temperature control device in compliance with the requirements of 35 Ill. Adm. Code 733.113(c)(2) or 733.133(c)(2).

"Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

"Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

"Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo - carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

"Transportation" means the movement of hazardous waste by air, rail, highway or water.

"Transporter" means a person engaged in the off - site transportation of hazardous waste by air, rail, highway or water.

"Treatability study" means:

A study in which a hazardous waste is subjected to a treatment process to determine:

Whether the waste is amenable to the treatment process.

What pretreatment (if any) is required.

The optimal process conditions needed to achieve the desired treatment.

The efficiency of a treatment process for a specific waste or wastes. Or,

The characteristics and volumes of residuals from a particular treatment process.

Also included in this definition for the purpose of 35 Ill. Adm. Code 721.104(e) and (f) exemptions are liner compatibility, corrosion and other material compatibility studies and

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toxicological and health effects studies. A "treatability study" is not a means to commercially treat or dispose of hazardous waste.

"Treatment" means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste or so as to render such waste non - hazardous or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage or reduced in volume.

"Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed or immobilized.

"Underground injection" means the subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also "injection well".)

"Underground tank" means a device meeting the definition of "tank" whose entire surface area is totally below the surface of and covered by the ground.

"Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

"United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands.

"Universal waste" means any of the following hazardous wastes that are managed under the universal waste requirement of 35 Ill. Adm. Code 733:

Batteries, as described in 35 Ill. Adm. Code 733.102;

Pesticides, as described in 35 Ill. Adm. Code 733.103; and

Thermostats, as described in 35 Ill. Adm. Code 733.104; and-

Mercury-containing lamps, as described in 35 Ill. Adm. Code 733.107.

BOARD NOTE: Mercury-containing lamps were added as universal waste pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a]

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(see P.A. 90-502, effective August 19, 1997).

"Universal waste handler" means either of the following:

A generator (as defined in this Section) of universal waste; or

The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates the universal waste, and sends that universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

"Universal waste handler" does not mean:

A person that treats (except under the provisions of Section 733.113(a) or (c) or 733.133(a) or (c)), disposes of, or recycles universal waste; or

A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

"Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

"Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

"USDOT" or "Department of Transportation" means the United States Department of Transportation.

"Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

"USEPA" or "EPA" or "U.S. EPA" means the United States Environmental Protection Agency.

"Vessel" includes every description of watercraft, used or capable of being used as a means of transportation on the water.

"Wastewater treatment unit" means a device which:

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Is part of a wastewater treatment facility which has an NPDES permit pursuant to 35 Ill. Adm. Code 309 or a pretreatment permit or authorization to discharge pursuant to 35 Ill. Adm. Code 310; and

Receives and treats or stores an influent wastewater which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103; and

Meets the definition of tank or tank system in this Section.

"Water (bulk shipment)" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

"Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

"Well injection" (See "underground injection").

"Zone of engineering control" means an area under the control of the owner or operator that, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to groundwater or surface water.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- 2) Code Citation: 35 Ill. Adm. Code 724
- 3) Section Numbers: Proposed Action:
724.101 Amended
- 4) Statutory Authority: 415 ILCS 5/22.23a and 27
- 5) A Complete Description of the Subjects and Issues Involved: A more complete description of this regulation may be found in the Board's opinion and order of November 6, 1997, in R98-12. On August 19, 1997, Governor Jim Edgar signed into law Public Act 90-502 (PA 90-502, effective August 19, 1997 (amended 415 ILCS 5/22.23a)). This legislation specifically designated high intensity discharge lamps and fluorescent lamps, which were classified as hazardous waste, as a category of universal waste. It further required the Illinois Environmental Protection Agency (Agency) to propose implementing regulations to the Board within 60 days after the effective date of the Public Act and for the Board to adopt such regulations within 180 days after receipt of the Agency's proposal. The proposed amendments to Part 733 contain the majority of amendments to the Board's rules needed to designate mercury containing lamps as a category of universal waste. The proposed amendments to Part 724, however, incorporate changes to include mercury containing lamps as a category of universal waste.
- 6) Will this proposed rule replace an emergency rule currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rule contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Policy Objectives: The policy objectives of this rulemaking are those enumerated in Sections 9 and 27 of the Environmental Protection Act. The objective is to protect health and the environment from pollution while providing economically reasonable and technically feasible control options. This is also a rulemaking mandated by Public Act 90-502, which designated high intensity discharge lamps and fluorescent lamps as a category of universal waste. Such designation is intended to reduce the amount of hazardous waste in the municipal solid waste stream, to encourage recycling and proper disposal of common hazardous wastes, and to reduce the regulatory burden on businesses that generate the wastes.
- 11) Time, Place, and Manner in which interested persons may comment on this

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Proposed rulemaking: Written comments concerning this rulemaking should reference R98-12 and be sent to:

Dorothy Gunn
Clerk of the Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, IL 60601
312/814-6931

Questions regarding this proposal may be directed to Cynthia Ervin at 217-524-8509.

- 12) Initial Regulatory Flexibility Analysis: This proposal is filed pursuant to the Environmental Protection Act.

A) Types of small businesses affected: Any small business which handles mercury containing lamps.

B) Reporting, bookkeeping, or other procedures required for compliance: The proposed amendments will eliminate the need for handlers of mercury containing lamps to make and submit to the Agency manifests and other reports. Currently, handlers and transporters of hazardous wastes must meet manifesting and recordkeeping requirements, many of which are reported to and tracked by the Agency. The proposed regulations reduce these requirements with respect to mercury containing lamps.

C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, or registered professional engineer.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the Proposed Rule(s) begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 724

STANDARDS FOR OWNERS AND OPERATORS OF
HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

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724.101
724.103

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Relationship to Interim Status Standards

SUBPART B: GENERAL FACILITY STANDARDS

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724.112
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Security
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Required Equipment
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SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

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Closure; Time Allowed For Closure
Disposal or Decontamination of Equipment, Structures and Soils
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Post-closure Plan; Amendment of Plan
Post-closure Notices
Certification of Completion of Post-closure Care

SUBPART H: FINANCIAL REQUIREMENTS

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 724.240 Applicability
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 724.242 Cost Estimate for Closure
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 724.246 Use of a Mechanism for Financial Assurance of Both Closure and Post-closure Care
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 724.271 Condition of Containers
 724.272 Compatibility of Waste With Container
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 724.292 Design and Installation of New Tank Systems or Components
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 724.296 Response to Leaks or Spills and Disposition of Leaking or unit-for-use Tank Systems
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 724.409 Surveying and Recordkeeping
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 724.412 Special Requirements for Ignitable or Reactive Waste
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 724.414 Special Requirements for Bulk and Containerized Liquids
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Section

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SUBPART S: CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS

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724.652 Corrective Action Management Units
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SUBPART W: DRIP PADS

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 724.671 Assessment of existing drip pad integrity
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 724.701 Environmental Performance Standards
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SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

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 724.930 Applicability
 724.931 Definitions
 724.932 Standards: Process Vents
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 724.934 Test methods and procedures
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SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

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 724.958 Standards: Pumps, Valves, Pressure Relief Devices and Other Connectors

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SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE IMPOUNDMENTS, AND CONTAINERS

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SUBPART DD: CONTAINMENT BUILDINGS

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724.1101 Design and operating standards

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APPENDIX A Recordkeeping Instructions

APPENDIX B EPA Report Form and Instructions (Repealed)

APPENDIX D Cochran's Approximation to the Behrens-Fisher Student's T-Test

APPENDIX E Examples of Potentially Incompatible Waste

APPENDIX I Groundwater Monitoring List

AUTHORITY: Implementing Sections 22.4 and 22.23a and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/22.4, 22.23a, and 27].

SOURCE: Adopted in R82-19, 53 PCB 131, at 7 Ill. Reg. 14059, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill. Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17702, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20830, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6973, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12487, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17601, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9951, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11244, effective August 1, 1996; amended in R98-12 at 22 Ill. Reg. _____, effective _____.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

SUBPART A: GENERAL PROVISIONS

Section 724.101 Purpose, Scope and Applicability

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- a) The purpose of this Part is to establish minimum standards that define the acceptable management of hazardous waste.
- b) The standards in this Part apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste, except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721.
- c) The requirements of this Part apply to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research and Sanctuaries Act (16 U.S.C. 1431-1434, 33 U.S.C. 1401) only to the extent they are included in a RCRA permit by rule granted to such a person under 35 Ill. Adm. Code 703.141. A "RCRA permit" is a permit required by Section 21(f) of the Environmental Protection Act and 35 Ill. Adm. Code 703.121.
- BOARD NOTE:** This Part does apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea.
- d) The requirements of this Part apply to a person disposing of hazardous waste by means of underground injection subject to a permit issued by the Agency pursuant to Section 12(g) of the Environmental Protection Act only to the extent they are required by 35 Ill. Adm. Code 704.Subpart F.
- BOARD NOTE:** This Part does apply to the above-ground treatment or storage of hazardous waste before it is injected underground.
- e) The requirements of this Part apply to the owner or operator of a POTW (publicly owned treatment works) that treats, stores, or disposes of hazardous waste only to the extent included in a RCRA permit by rule granted to such a person under 35 Ill. Adm. Code 703.141.
- f) This subsection corresponds with 40 CFR 264.1(f), which provides that the federal regulations do not apply to W/S/D activities in authorized states, except under limited, enumerated circumstances. This statement maintains structural consistency with USEPA rules.
- g) The requirements of this Part do not apply to:
 - 1) The owner or operator of a facility permitted by the Agency under Section 21 of the Environmental Protection Act to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this Part by 35 Ill. Adm. Code 721.105.
 - BOARD NOTE:** The owner or operator may be subject to 35 Ill. Adm. Code 807 and may have to have a supplemental permit under 35 Ill. Adm. Code 807.210.
 - 2) The owner or operator of a facility managing recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2) through (a)(4) (except to the extent that requirements of this Part are referred to in 35 Ill. Adm. Code 726.Subparts C, F, G, or H or 35 Ill. Adm. Code 739).
 - 3) A generator accumulating waste on-site in compliance with 35 Ill. Adm. Code 722.134.
 - 4) A farmer disposing of waste pesticides from the farmer's own use in compliance with 35 Ill. Adm. Code 722.170.

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- 5) The owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110.
- 6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 35 Ill. Adm. Code 728.Table T) or reactive (D003) waste to remove the characteristic before land disposal, the owner or operator must comply with the requirements set out in Section 724.117(b).
- 7) This subsection corresponds with 40 CFR 264.1(g)(7), reserved by USEPA. This statement maintains structural consistency with USEPA rules.

8) Immediate response:

- A) Except as provided in subsection (g)(8)(B) below, a person engaged in treatment or containment activities during immediate response to any of the following situations:
- i) A discharge of a hazardous waste;
 - ii) An imminent and substantial threat of a discharge of hazardous waste;
 - iii) A discharge of a material that becomes a hazardous waste when discharged.

- B) An owner or operator of a facility otherwise regulated by this Part must comply with all applicable requirements of 724.Subparts C and D.

- C) Any person that is covered by subsection (g)(8)(A) above and that continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and 35 Ill. Adm. Code 702, 703, and 705 for those activities.

- 9) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less.

- 10) The addition of absorbent materials to waste in a container (as defined in 35 Ill. Adm. Code 720) or the addition of waste to absorbent material in a container, provided these actions occur at the time waste is first placed in the container, and Sections 724.117(b), 724.271, and 724.272 are complied with.

- 11) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that handles any of the wastes listed below is subject to regulation under 35 Ill. Adm. Code 733 when handling the following universal wastes:

- A) Batteries, as described in 35 Ill. Adm. Code 733.102;
- B) Pesticides, as described in 35 Ill. Adm. Code 733.103; and
- C) Thermostats, as described in 35 Ill. Adm. Code 733.104; and
- D) Mercury-containing lamps, as described in 35 Ill. Adm. Code 733.107.

BOARD NOTE: Subsection (g)(11)(D) of this Section was added

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pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

- h) This Part applies to owners and operators of facilities that treat, store, or dispose of hazardous wastes referred to in 35 Ill. Adm. Code 728.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Standards for Universal Waste Management2) Code Citation: 35 Ill. Adm. Code 7333) Section Numbers:

733.101 Proposed Action:
Amended
733.106 Amended
733.107 New Section
733.113 Amended
733.114 Amended
733.118 Amended
733.132 Amended
733.133 Amended
733.134 Amended
733.138 Amended
733.139 Amended
733.151 Amended
733.161 Amended
733.162 Amended
733.180 Amended

4) Statutory Authority: 415 ILCS 5/22.23a and 27

5) A Complete Description of the Subjects and Issues Involved: A more complete description of this regulation may be found in the Board's opinion and order of November 6, 1997, in R98-12. On August 19, 1997, Governor Jim Edgar signed into law Public Act 90-502 (PA 90-502, effective August 19, 1997 (Amended 415 ILCS 5/22.23a)). This legislation specifically designated high intensity discharge lamps and fluorescent lamps, which were classified as hazardous waste, as a category of universal waste. It further required the Illinois Environmental Protection Agency (Agency) to propose implementing regulations to the Board within 60 days after the effective date of the Public Act and for the Board to adopt such regulations within 180 days after receipt of the Agency's proposal. The proposed amendments to Part 733 contain the majority of amendments to the Board's rules needed to designate mercury containing lamps as a category of universal waste. Amendments to Parts 703, 720, 721, 724, 725, and 728 have, however, been proposed to conform with the proposed amendments to Part 733, which designates mercury containing lamps as a category of universal waste.

6) Will this proposed rule replace an emergency rule currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

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9) Are there any other proposed amendments pending on this Part? No

10) Statement of Policy Objectives: The policy objectives of this rulemaking are those enumerated in Sections 9 and 27 of the Environmental Protection Act. The objective is to protect health and the environment from pollution while providing economically reasonable and technically feasible control options. This is also a rulemaking mandated by Public Act 90-502, which designated high intensity discharge lamps and fluorescent lamps as a category of universal waste. Such designation is intended to reduce the amount of hazardous waste in the municipal solid waste stream, to encourage recycling and proper disposal of common hazardous wastes, and to reduce the regulatory burden on businesses that generate the wastes.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments concerning this rulemaking should reference R98-12 and be sent to:

Dorothy Gunn
Clerk of the Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, IL 60601
312/814-6931

Questions regarding this proposal may be directed to Cynthia Ervin at 217-524-8509.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Any small business which handles mercury containing lamps.

B) Reporting, bookkeeping, or other procedures required for compliance: The proposed amendments will eliminate the need for handlers of mercury containing lamps to make and submit to the Agency manifests and other reports. Currently, handlers and transporters of hazardous wastes must meet extensive manifesting and recordkeeping requirements, many of which were reported to and tracked by the Agency. The proposed regulations reduce these requirements with respect to mercury containing lamps.

C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, or registered professional engineer.

13) Regulatory Agenda on which this rulemaking was summarized: July 1997

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The full text of the Proposed Amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER C: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 733

STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

SUBPART A: GENERAL

Section	Scope	Exempt	Small	Quantity
733.101	Applicability--Batteries			
733.102	Applicability--Pesticides			
733.103	Applicability--Mercury Thermostats			
733.104	Applicability--Household and Conditionally			
733.105	Generator Waste			
733.106	Definitions			
733.107	Applicability--Mercury-Containing Lamps			

SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

Section	Scope
733.110	Applicability
733.111	Prohibitions
733.112	Notification
733.113	Waste Management
733.114	Labeling and Marking
733.115	Accumulation Time Limits
733.116	Employee Training
733.117	Response to Releases
733.118	Off-Site Shipments
733.119	Tracking Universal Waste Shipments
733.120	Exports

SUBPART C: STANDARDS FOR LARGE QUANTITY HANDLERS

Section	Scope
733.130	Applicability
733.131	Prohibitions
733.132	Notification
733.133	Waste Management
733.134	Labeling and Marking
733.135	Accumulation Time Limits
733.136	Employee Training
733.137	Response to Releases
733.138	Off-Site Shipments
733.139	Tracking Universal Waste Shipments

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733.140 Exports

SUBPART D: STANDARDS FOR UNIVERSAL WASTE TRA PORTERS

Section

733.150 Applicability

733.151 Prohibitions

733.152 Waste Management

733.153 Accumulation Time Limits

733.154 Response to Releases

733.155 Off-Site Shipments

733.156 Exports

SUBPART E: STANDARDS FOR DESTINATION FACILITIES

Section

733.160 Applicability

733.161 Off-Site Shipments

733.162 Tracking Universal Waste Shipments

Section

733.170 Imports

SUBPART F: IMPORT REQUIREMENTS

SUBPART G: PETITIONS TO INCLUDE OTHER WASTES

Section

733.180 General

733.181 Factors for Petitions to Include Other Wastes

AUTHORITY: Implementing Sections 22.4 and 22.23a and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/22.4, 22.23a, and 27].

SOURCE: Adopted in R95-20 at 20 Ill. Reg. 11291, effective August 1, 1996; amended at 21 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 733.101 Scope

a) This Part establishes requirements for managing the following:

- 1) Batteries, as described in Section 733.102;
- 2) Pesticides, as described in Section 733.103; ~~and~~
- 3) Thermostats, as described in Section 733.104; and
- 4) Mercury-containing lamps, as described in Section 733.107.

BOARD NOTE: Subsection (a)(4) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A.

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90-502, effective August 19, 1997).

- b) This Part provides an alternative set of management standards in lieu of regulation under 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728.

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

Section 733.106 Definitions

"Battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in Sections 733.113(a) and (c) and 733.133(a) and (c). A facility at which a particular category of universal waste is only accumulated is not a destination facility for purposes of managing that category of universal waste.

"Electric lamp" means the bulb or tube portion of a lighting device specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infrared regions of the electromagnetic spectrum.

BOARD NOTE: The definition of "electric lamp" was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

"FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sections 136 - 136y).

"Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in 35 Ill. Adm. Code 721 or whose act first causes a hazardous waste to become subject to regulation.

"Large quantity handler of universal waste" means a universal waste handler (as defined in this Section) that accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, or thermostats, or mercury-containing lamps, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated.

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BOARD NOTE: Mercury-containing lamps were added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

"Mercury-containing lamp" means an electric lamp into which mercury is purposely introduced by the manufacturer for the operation of the lamp. Mercury-containing lamps include, but are not limited to, fluorescent lamps and high-intensity discharge lamps.

BOARD NOTE: Mercury-containing lamps were added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

"On-site" means the same or geographically contiguous property that may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Non-contiguous properties, owned by the same person but connected by a right-of-way that that person controls and to which the public does not have access, are also considered on-site property.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or intended for use as a plant regulator, defoliant, or desiccant, other than any article that fulfills one of the following descriptions:

It is a new animal drug under Section 201(v) of the Federal Food, Drug and Cosmetic Act (FFDCA: 21 U.S.C. Section 321(v)), incorporated by reference in Section 720.111,

It is an animal drug that has been determined by regulation of the federal Secretary of Health and Human Services, pursuant to FFDCA Section 360b(j), incorporated by reference in Section 720.111, to be an exempted new animal drug, or

It is an animal feed under FFDCA Section 201(w) (21 U.S.C. Section 321(w)), incorporated by reference in Section 720.111, that bears or contains any substances described in either of the two preceding paragraphs of this definition.

BOARD NOTE: The second exception of corresponding 40 CFR 273.6 reads as follows: "Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug". This is very similar to the language of Section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA: 7 U.S.C. Section 136(u)). The three exceptions, taken together, appear intended not to include as "pesticide" any material within the scope of federal Food and Drug Administration regulation. The Board codified this

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provision with the intent of retaining the same meaning as its federal counterpart while adding the definiteness definiteness required under Illinois law.

"Small quantity handler of universal waste" means a universal waste handler (as defined in this Section) that does not accumulate more than 5,000 kilograms total of universal waste (batteries, pesticides, or thermostats, or mercury-containing lamps, calculated collectively) at any time.

BOARD NOTE: Mercury-containing lamps were added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element and mercury-containing ampules that have been removed from such a temperature control device in compliance with the requirements of 35 Ill. Adm. Code 733.113(c)(2) or 733.133(c)(2).

"Universal waste" means any of the following hazardous wastes that are subject to the universal waste requirements of this Part:

Batteries, as described in Section 733.102;

Pesticides, as described in Section 733.103; and

Thermostats, as described in Section 733.104; and-

Mercury-containing lamps, as described in Section 733.107.

BOARD NOTE: Mercury-containing lamps were added as universal waste pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

"Universal waste handler" means either of the following:

A generator (as defined in this Section) of universal waste; or

The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

"Universal waste handler" does not mean:

A person that treats (except under the provisions of Section 733.113(a) or (c) or 733.133(a) or (c)), disposes of, or recycles universal waste; or

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A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

"Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 733.107 Applicability--Mercury-Containing Lamps

a) Mercury-containing lamps covered under this Part. The requirements of this Part apply to persons managing mercury-containing lamps, except those listed in subsection (b) of this Section.

b) Mercury-containing lamps not covered under this Part. The requirements of this Part do not apply to persons managing the following mercury-containing lamps:

- 1) Mercury-containing lamps that are not yet wastes under 35 Ill. Adm. Code 721, including those that do not meet the criteria for waste generation in subsection (c) of this Section.
- 2) Mercury-containing lamps that are not hazardous waste. A mercury-containing lamp is not a hazardous waste if it does not exhibit one or more of the characteristics identified in 35 Ill. Adm. Code 721.Subpart C.

c) Generation of waste mercury-containing lamps.

- 1) A used mercury-containing lamp becomes a waste on the date the handler permanently removes it from its fixture.
- 2) An unused mercury-containing lamp becomes a waste on the date the handler decides to discard it.

BOARD NOTE: Section 733.107 was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Added at 22 Ill. Reg. _____, effective _____)

SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

Section 733.113 Waste Management

a) Universal waste batteries. A small quantity handler of universal waste shall manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to

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the environment, as follows:

1) A small quantity handler of universal waste shall contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

2) A small quantity handler of universal waste may conduct the following activities, as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

- A) Sorting batteries by type;
 - B) Mixing battery types in one container;
 - C) Discharging batteries so as to remove the electric charge;
 - D) Regenerating used batteries;
 - E) Disassembling batteries or battery packs into individual batteries or cells;
 - F) Removing batteries from consumer products; or
 - G) Removing electrolyte from batteries.
- 3) A small quantity handler of universal waste that removes electrolyte from batteries, or that generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, shall determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C.

A) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it is subject to all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.

B) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste landfills apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

b) Universal waste pesticides. A small quantity handler of universal waste shall manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

- 1) A container that remains closed, structurally sound, compatible

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with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

- 2) A container that does not meet the requirements of subsection (b)(1) above, provided that the unacceptable container is overpacked in a container that does meet the requirements of subsection (b)(1);

- 3) A tank that meets the requirements of 35 Ill. Adm. Code 725.Subpart J, except for 35 Ill. Adm. Code 725.297(c), 265.300, and 265.301; or

- 4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

c) Universal waste thermostats. A small quantity handler of universal waste shall manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

- 1) A small quantity handler of universal waste shall contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
- 2) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler follows each of the following procedures:

- A) It removes the ampules in a manner designed to prevent breakage of the ampules;
- B) It removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);
- C) It ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;
- D) It immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;
- E) It ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
- F) It ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency

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procedures, including transfer of mercury from containment devices to appropriate containers;

- G) It stores removed ampules in closed, non-leaking containers that are in good condition;

- H) It packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.

- 3) Required hazardous waste determination and further waste management.

- A) A small quantity handler of universal waste that removes mercury-containing ampules from thermostats shall determine whether the following exhibit a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C:

- i) Mercury or clean-up residues resulting from spills or leaks; or
- ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units).

- B) If the mercury, residues, or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the mercury, residues, or other waste and shall manage it is subject to 35 Ill. Adm. Code 722.

- C) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste landfills apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

- d) Universal waste mercury-containing lamps. A small quantity handler of universal waste shall manage universal waste mercury-containing lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

- 1) A small quantity handler of universal waste mercury-containing lamps shall, at all times:
 - A) Contain unbroken lamps in packaging that will minimize breakage during normal handling conditions; and
 - B) Contain broken lamps in packaging that will prevent releases of lamp fragments and residues.
- 2) A small quantity handler of universal waste mercury-containing lamps shall, at all times, manage waste lamps in a manner designed to minimize lamp breakage.
- 3) A small quantity handler of universal waste mercury-containing

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lamps shall immediately contain all releases of lamp fragments and residues from broken lamps.

- 4) A small quantity handler of universal wastes shall undertake hazardous waste determination and further waste management as follows:

A) A small quantity handler of universal waste mercury-containing lamps shall determine whether the following exhibit a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C:

- i) Any materials resulting from a release;
- ii) Clean-up residues from spills or breakage; or
- iii) Other solid waste generated as a result of handling waste lamps.

B) If the material, residue, or other solid waste exhibits a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered to be the generator of the material, residue, or other hazardous waste and shall manage it in accordance with 35 Ill. Adm. Code 722.

C) If the material, residue, or other solid waste is not hazardous, the handler may manage the waste in any manner that is in compliance with applicable federal, State, or local solid (nonhazardous) waste regulations.

- 5) Universal waste mercury-containing lamps shall not be intentionally broken or crushed.

BOARD NOTE: Subsection (d) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 733.114 Labeling and Marking

A small quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as follows:

- a) Universal waste batteries (i.e., each battery) or a container in which the batteries are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Battery(ies)", "Waste Battery(ies)", or "Used Battery(ies)";
- b) A container (or multiple container package unit), tank, transport vehicle, or vessel in which recalled universal waste pesticides, as described in Section 733.103(a)(1), are contained must be labeled or marked clearly as follows:

- 1) The label that was on or accompanied the product as sold or distributed; and
- 2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)";

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c) A container, tank, or transport vehicle, or vessel in which unused pesticide products, as described in Section 733.103(a)(2), are contained must be labeled or marked clearly as follows:

- 1) Pesticide labeling:
 - A) The label that was on the product when purchased, if still legible;
 - B) If using the labels described in subsection (c)(1)(A) above is not feasible, the appropriate label as required under USDOT regulation 49 CFR 172; or
 - C) If using the labels described in subsections (c)(1)(A) and (c)(1)(B) above is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by a state; and
- 2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)";

and

d) Universal waste thermostats (i.e., each thermostat) or a container in which the thermostats are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostat(s)", or "Waste Mercury Thermostat(s)", or "Used Mercury Thermostat(s)"; and

e) Universal waste mercury-containing lamps or a container in which the lamps are contained shall be labeled or clearly marked with any one of the following phrases: "Universal Waste-Mercury-Containing Lamp(s)", "Waste Mercury-Containing Lamp(s)" or "Used Mercury-Containing Lamp(s)".

BOARD NOTE: Subsection (e) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 733.118 Off-Site Shipments

a) A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

b) If a small quantity handler of universal waste self-transport universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and shall comply with the transporter requirements of 733.Subpart D while transporting the universal waste.

c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR 171 through 180, a small quantity handler of universal waste shall package, label, mark, and placard the shipment and prepare the proper shipping papers in accordance with the applicable USDOT regulations under 49 CFR 172 through 180.

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- d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler shall ensure that the receiving handler agrees to receive the shipment.
- e) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler shall either:

- 1) Receive the waste back when notified that the shipment has been rejected, or
 - 2) Agree with the receiving handler on a destination facility to which the shipment will be sent.
- f) A small quantity handler of universal waste may reject a shipment containing universal waste or a portion of a shipment containing universal waste that it has received from another handler. If a handler rejects a shipment or a portion of a shipment, it shall contact the originating handler to notify the originating handler of the rejection and to discuss reshipment of the load. The handler shall perform either of the following actions:

- 1) Send the shipment back to the originating handler, or
- 2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

- g) If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler shall immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 1001 North Grand Avenue East, P-0--Box-192767 Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Agency will provide instructions for managing the hazardous waste.

- h) If a small quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste landfills apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART C: STANDARDS FOR LARGE QUANTITY HANDLERS

Section 733.132 Notification

- a) Written notification of universal waste management.

- 1) Except as provided in subsections (a)(2) and (a)(3) below, a

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large quantity handler of universal waste shall have sent written notification of universal waste management to the Agency, and received a USEPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.

- 2) A large quantity handler of universal waste that has already notified USEPA or the Agency of its hazardous waste management activities and has received a USEPA Identification Number is not required to renotify under this Section.

- 3) A large quantity handler of universal waste that manages recalled universal waste pesticides, as described in Section 733.103(a)(1), and that has sent notification to USEPA or the Agency, as required by 40 CFR 165, is not required to notify for those recalled universal waste pesticides under this Section.

b) This notification must include:

- 1) The universal waste handler's name and mailing address;
- 2) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;
- 3) The address or physical location of the universal waste management activities;
- 4) A list of all of the types of universal waste managed by the handler (e.g., batteries, pesticides, thermostats);
- 5) A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste (e.g., batteries, pesticides, thermostats, mercury-containing lamps) the handler is accumulating above this quantity.

BOARD NOTE: At 60 Fed. Reg. 25520-21 (May 11, 1995), USEPA explained that the generator or consolidation point may use USEPA Form 8700-12 for notification. (To obtain USEPA Form 8700-12 call the Agency at 217-782-6761.) USEPA further explained that it is not necessary for the handler to aggregate the amounts of waste at multiple non-contiguous sites for the purposes of the 5,000 kilogram determination. Mercury-containing lamps were added as universal waste pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 733.133 Waste Management

- a) Universal waste batteries. A large quantity handler of universal waste shall manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

- 1) A large quantity handler of universal waste shall contain any universal waste battery that shows evidence of leakage, spillage,

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or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

- 2) A large quantity handler of universal waste may conduct the following activities, as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):
 - A) Sorting batteries by type;
 - B) Mixing battery types in one container;
 - C) Discharging batteries so as to remove the electric charge;
 - D) Regenerating used batteries;
 - E) Disassembling batteries or battery packs into individual batteries or cells;
 - F) Removing batteries from consumer products; or
 - G) Removing electrolyte from batteries.

- 3) A large quantity handler of universal waste that removes electrolyte from batteries or that generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above shall determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C.
 - A) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.
 - B) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste landfills apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

Universal waste pesticides. A large quantity handler of universal waste shall manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

- 1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

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- 2) A container that does not meet the requirements of subsection (b)(1) above, provided that the unacceptable container is overpacked in a container that does meet the requirements of subsection (b)(1);

- 3) A tank that meets the requirements of 35 Ill. Adm. Code 725.Subpart J, except for 35 Ill. Adm. Code 725.297(c), 725.300, and 725.301; or

- 4) A transport vehicle or vessel that is closed, structurally sound, and compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

- c) Universal waste thermostats. A large quantity handler of universal waste shall manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
 - 1) A large quantity handler of universal waste shall contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

- 2) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler follows each of the following procedures:
 - A) It removes the ampules in a manner designed to prevent leakage of the ampules;
 - B) It removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of leakage);
 - C) It ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;

- D) It immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;

- E) It ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels of mercury;

- F) It ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

- G) It stores removed ampules in closed, non-leaking containers

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that are in good condition;

- H) It packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.

3) Required hazardous waste determination and further waste management.

- A) A large quantity handler of universal waste that removes mercury-containing ampules from thermostats shall determine whether the following exhibit a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721-Subpart C.

- i) Mercury or clean-up residues resulting from spills or leaks; or
 - ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units).
- B) If the mercury, residues, or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726 and 728. The handler is considered the generator of the mercury, residues, or other waste and is subject to 35 Ill. Adm. Code 722.

- C) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste landfills apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

- d) Universal waste mercury-containing lamps. A large quantity handler of universal waste shall manage universal waste mercury-containing lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

- 1) A large quantity handler of universal waste mercury-containing lamps shall, at all times:

- A) Contain unbroken lamps in packaging that will minimize breakage during normal handling conditions; and
- B) Contain broken lamps in packaging that will prevent releases of lamp fragments and residues.

- 2) A large quantity handler of universal waste mercury-containing lamps shall, at all times, manage waste lamps in a manner designed to minimize lamp breakage.

- 3) A large quantity handler of universal waste mercury-containing lamps shall immediately contain all releases of lamp fragments and residues from broken lamps.

- 4) A large quantity handler of universal waste shall undertake a hazardous waste determination and further waste management as

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follows:

- A) A large quantity handler of universal waste mercury-containing lamps shall determine whether the following exhibit a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721-Subpart C:

- i) Any materials resulting from a release;
- ii) Clean-up residues from spills or breakage; or
- iii) Other solid waste generated as a result of handling waste lamps.

- B) If the material, residue, or other solid waste exhibits a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered to be the generator of the material, residue, or other hazardous waste and shall manage it in accordance with 35 Ill. Adm. Code 722.

- C) If the material, residue, or other solid waste is not hazardous, the handler may manage the waste in any manner that is in compliance with applicable federal, state, or local solid (nonhazardous) waste regulations.

- 5) Universal waste mercury-containing lamps shall not be intentionally broken or crushed.

BOARD NOTE: Subsection (d) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 733.134 Labeling and Marking

A large quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as follows:

- a) Universal waste batteries (i.e., each battery), or a container or tank in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Battery(ies)"; or "Waste Battery(ies)"; or "Used Battery(ies)";
- b) A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in Section 733.103(a)(1) are contained must be labeled or marked clearly as follows:

- 1) The label that was on or accompanied the product as sold or distributed; and
 - 2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)";
- c) A container, tank, or transport vehicle or vessel in which unused pesticide products, as described in Section 733.103(a)(2), are contained must be labeled or marked clearly as follows:

- 1) Pesticide labeling:

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- A) The label that was on the product when purchased, if still legible;
- B) If using the labels described in Subsection (c)(1)(A) above is not feasible, the appropriate label as required under the USDOT regulation 49 CFR 172; or
- C) If using the labels described in subsections (c)(1)(A) and (c)(1)(B) above is not feasible, another label prescribed or designated by the pesticide collection program; and
- 2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)"; and
- d) Universal waste thermostats (i.e., each thermostat) or a container or tank in which the thermostats are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostat(s)", or "Waste Mercury Thermostat(s)" or "Used Mercury Thermostat(s)"; and-
- e) Universal waste mercury-containing lamps or a container in which the lamps are contained shall be labeled or clearly marked with any one of the following phrases: "Universal Waste-Mercury-Containing Lamp(s)", "Waste Mercury-Containing Lamp(s)" or "Used Mercury-Containing Lamp(s)".
- BOARD NOTE: Subsection (e) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 733.138 Off-Site Shipments

- a) A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.
- b) If a large quantity handler of universal waste self-transport universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and shall comply with the transporter requirements of 733.Subpart D of this Part while transporting the universal waste.
- c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR 171 through 180, a large quantity handler of universal waste shall package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable USDOT regulations under 49 CFR 172 through 180.
- d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler shall ensure that the receiving handler agrees to receive the shipment.
- e) If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and

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- the shipment is rejected by the receiving handler or destination facility, the originating handler shall either:
- 1) Receive the waste back when notified that the shipment has been rejected, or
- 2) Agree with the receiving handler on a destination facility to which the shipment will be sent.
- f) A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that it has received from another handler. If a handler rejects a shipment or a portion of a shipment, it shall contact the originating handler to notify the originating handler of the rejection and to discuss reshipment of the load. The handler shall perform either of the following actions:
- 1) Send the shipment back to the originating handler, or
- 2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.
- g) If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler shall immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 100th North Grand Avenue East, P.O.--Box--492767 Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Agency will provide instructions for managing the hazardous waste.
- h) If a large quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste landfills apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 733.139 Tracking Universal Waste Shipments

- a) Receipt of shipments. A large quantity handler of universal waste shall keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:
- 1) The name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent;
- 2) The quantity of each type of universal waste received (e.g.,

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batteries, pesticides, thermostats, mercury-containing lamps);

3) The date of receipt of the shipment of universal waste.

b) Shipments off-site. A large quantity handler of universal waste shall keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste sent must include the following information:

1) The name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;

2) The quantity of each type of universal waste sent (e.g., batteries, pesticides, thermostats, mercury-containing lamps);

3) The date the shipment of universal waste left the facility.

c) Record Retention.

1) A large quantity handler of universal waste shall retain the records described in subsection (a) above for at least three years from the date of receipt of a shipment of universal waste.

2) A large quantity handler of universal waste shall retain the records described in subsection (b) above for at least three years from the date a shipment of universal waste left the facility.

BOARD NOTE: Mercury-containing lamps were added as universal waste pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART D: STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS

Section 733.151 Prohibitions

A universal waste transporter is prohibited from the following:

a) Disposing of universal waste; and

b) Diluting or treating universal waste, except by responding to releases as provided in Section 733.154; and-

c) Intentionally crushing or breaking universal waste mercury-containing lamps.

BOARD NOTE: Subsection (c) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART E: STANDARDS FOR DESTINATION FACILITIES

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Section 733.161 Off-Site Shipments

a) The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility, or a foreign destination. The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a portion of a shipment, it shall contact the shipper to notify the shipper of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility shall perform either of the following actions:

1) Send the shipment back to the original shipper, or

2) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.

c) If the owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal waste, the owner or operator of the destination facility shall immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 1801 North Grand Avenue East, P.O. Box-192767 Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the shipper. The Agency will provide instructions for managing the hazardous waste.

d) If the owner or operator of a destination facility receives a shipment of non-hazardous, non-universal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or state solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste landfills apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 733.162 Tracking Universal Waste Shipments

a) The owner or operator of a destination facility shall keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

1) The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;

2) The quantity of each type of universal waste received (e.g.,

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- batteries, pesticides, thermostats);
- 3) The date of receipt of the shipment of universal waste.
- b) The owner or operator of a destination facility shall retain the records described in subsection (a) above for at least three years from the date of receipt of a shipment of universal waste.
- BOARD NOTE: Mercury-containing lamps were added as universal waste pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART G: PETITIONS TO INCLUDE OTHER WASTES

Section 733.180 General

- a) Any person seeking to add a hazardous waste or a category of hazardous waste to this Part may petition for a regulatory amendment as follows:
- 1) If USEPA has already added the waste or category of waste to 40 CFR 273: by identical-in-substance rulemaking, under Section 22.4(a) of the Act, 35 Ill. Adm. Code 101 and 102, 35 Ill. Adm. Code 720.120; or
- 2) If USEPA has not added the waste or category of waste to 40 CFR 273: by general rulemaking, under Sections 22.4(b) and 27 of the Act, 35 Ill. Adm. Code 101 and 102, this Subpart, and 35 Ill. Adm. Code 720.120 and 720.123.
- BOARD NOTE: The Board cannot add a hazardous waste or category of hazardous waste to this Part by general rulemaking until USEPA either authorizes the Illinois universal waste regulations or otherwise authorizes the Board to add new categories of universal waste. The Board may, however, add a waste or category of waste by identical-in-substance rulemaking.
- b) Petitions for identical-in-substance rulemaking.
- 1) Any petition for identical-in-substance rulemaking under subsection (a)(1) above must include a copy of the Federal Register notice(s) of adopted amendments in which USEPA promulgated the addition(s) to 40 CFR 273. The Board will evaluate any petition for identical-in-substance rulemaking based on the Federal Register notice(s).
- 2) If the petitioner desires expedited Board consideration of the proposed amendments ~~amendments~~ to this Part (i.e., adoption within one year of the date of the Federal Register notice), it must explicitly request expedited consideration and set forth the arguments in favor of such consideration.
- c) Petitions for general rulemaking.
- 1) To be successful using the general rulemaking procedure under subsection (a)(2) above, the petitioner must demonstrate to the satisfaction of the Board that each of the following would be

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true of regulation under the universal waste regulations of this Part:

- A) It would be appropriate for the waste or category of waste;
- B) It would improve management practices for the waste or category of waste; and
- C) It would improve implementation of the hazardous waste program.
- 2) The petition must include the information required by 35 Ill. Adm. Code 720.120(b). The petition should also address as many of the factors listed in Section 733.181 as are appropriate for the waste or waste category addressed in the petition.
- 3) The Board will evaluate petitions for general rulemaking and grant or deny the requested relief using the factors listed in Section 733.181. The decision will be based on the weight of evidence showing that regulation under this Part would fulfill the requirements of subsection (c)(1) above.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Emergency Medical Services and Trauma Center Code2) Code Citation: 77 Ill. Adm. Code 5153) Section Numbers:

Proposed Action:

Amendments

515.320

Amendments

515.370

Amendments

515.420

Amendments

515.440

Amendments

515.510

Amendments

515.520

Amendments

515.540

Amendments

515.725

New Section

515.2000

Amendments

515.2040

Amendments

515.2050

Amendments

515.2060

Amendments

515.Appendix C

Amendments

515.Appendix F

Amendments

4) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]5) A Complete Description of the Subjects and Issues Involved: Section 515.320 (Scope of EMS Service) is being amended to add a provision concerning conflict of interest that was in the former rules under Part 535 but was inadvertently omitted from Part 515.

Section 515.370 (Automated Defibrillation) is being amended to add First Responders.

Section 515.420 (System Participation Suspensions) is being amended to require the EMS Medical Director to prepare and post the System Review Board List in a 24-hour accessible location at the Resource Hospital.

Section 515.440 (State Emergency Medical Services Disciplinary Review Board) is being amended in response to P.A. 90-144 (effective July 23, 1997) to state that "deliberations for decisions," rather than "meetings," shall be conducted in closed session. The statement that meetings of the Board are exempt from the Open Meetings Act is being deleted. Sections 515.510 (Emergency Medical Technician - Intermediate Training) and 515.520 (Emergency Medical Technician - Paramedic Training) are being amended to include language concerning submission of rosters for training programs.

Section 515.540 (EMT Licensure) is being amended to include the passing score (at least 70 percent) for EMT-I and EMT-P examinations.

Section 515.725 (First Responder - AED) is being added to implement P.A.

DEPARTMENT OF PUBLIC HEALTH

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90-0440, which amended the EMS Act to include provisions under which a person currently approved as a First Responder may use an automated defibrillator. The legislation requires the Department to adopt rules prescribing standards of performance and conduct for such persons. The rules set forth requirements for registration and renewal of registration.

Section 515.2000 (Trauma Center Designation) is being amended to include a cross-reference to Appendix B (A Request for Renewal of Trauma Center Designation).

Section 515.2040 (Level II Trauma Center Designation) is being amended to add that minutes related to focused outcome analysis shall be provided on site.

Section 515.2050 (Trauma Center Uniform Reporting Requirements) is being amended to make additions and corrections to the information required on each reportable trauma patient.

Section 515.2060 (Trauma Patient Evaluation and Transfer) is being amended to make corrections to the Revised Trauma Score.

Section 515.Appendix C (Minimum Trauma Field Triage Criteria) is being amended to require transport to the nearest hospital in a rural area where there is no comprehensive emergency department and where transport to a Trauma Center or affiliate trauma hospital is greater than 45 minutes.

Section 515.Appendix F (Template for In-House Triage for Trauma Centers) is being amended to delete unnecessary language in the description of Category II patients. Language is being added concerning transport of Category I patients.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of this notice in the *Illinois Register*.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain Any Incorporations By Reference? No

9) Are there any other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will affect units of local government but will not require expenditures.

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- 11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

Ms. Gail M. Devito
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217/782-2043)

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. Devito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

- 12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Ambulance services, hospitals

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Section 515.2050 sets forth requirements for reporting data on trauma patients on a quarterly basis.

C) Types of Professional Skills Necessary for Compliance: Medical professions such as emergency medical technician; medical support such as medical records technician.

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on the most recent Regulatory Agenda because: the need for the rulemaking was not apparent when the Regulatory Agenda was published.

The full text of the Proposed Amendments begins on the next page.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETY

PART 515

EMERGENCY MEDICAL SERVICES AND TRAUMA CENTER CODE

SUBPART A: GENERAL

Section	
515.100	Definitions
515.125	Incorporated and Referenced Materials
515.150	Waiver Provisions
515.160	Violations, Hearings and Fines
515.170	Employer Responsibility
SUBPART B: EMS REGIONS	
SUBPART C: EMS SYSTEMS	
515.200	Emergency Medical Services Regions
515.210	EMS Regional Plan Development
515.220	EMS Regional Plan Content
515.230	Resolution of Disputes Concerning the EMS Regional Plan

SUBPART C: EMS SYSTEMS

Section	
515.300	Approval of New EMS Systems
515.310	Approval and Renewal of EMS Systems
515.320	Scope of EMS Service
515.330	EMS System Program Plan
515.340	EMS Medical Director's Course
515.350	Data Collection and Submission
515.360	Approval of Additional Drugs and Equipment
515.370	Automated Defibrillation
515.380	Do Not Resuscitate (DNR) Policy
515.390	Minimum Standards for Continuing Operation
515.400	General Communications
515.410	EMS System Communications
515.420	System Participation Suspensions
515.430	Suspension, Revocation and Denial of Licensure of EMTs
515.440	State Emergency Medical Services Disciplinary Review Board

SUBPART D: EMERGENCY MEDICAL TECHNICIANS

Section	
515.500	Emergency Medical Technician-Basic Training
515.510	Emergency Medical Technician-Intermediate Training
515.520	Emergency Medical Technician-Paramedic Training
515.530	EMT Testing and Fees

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515.540
515.550
515.560
515.570
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515.590
515.600
515.610

EMT Licensure
Scope of Practice - Licensed EMT
EMT-B Continuing Education
EMT-I Continuing Education
EMT-P Continuing Education
EMT License Renewals
EMT Inactive Status
EMT Reciprocity

SUBPART E: EMS LEAD INSTRUCTOR, EMERGENCY MEDICAL DISPATCHER,
FIRST RESPONDER, PRE-HOSPITAL REGISTERED NURSE,
EMERGENCY COMMUNICATIONS REGISTERED NURSE, AND
TRAUMA NURSE SPECIALIST

Section
515.700
515.710
515.720
515.725
515.730
515.740
515.750
515.760

EMS Lead Instructor
Emergency Medical Dispatcher
First Responder
First Responder - AED
Pre-Hospital Registered Nurse
Emergency Communications Registered Nurse
Trauma Nurse Specialist
Trauma Nurse Specialist Program Plan

SUBPART F: VEHICLE SERVICE PROVIDERS

Section
515.800
515.810
515.820
515.830

Vehicle Service Provider Licensure
EMS Vehicle System Participation
Denial, Nonrenewal, Suspension and Revocation of a Vehicle Service
Provider License
Ambulance Licensing Requirements

SUBPART G: LICENSURE OF SPECIALIZED EMERGENCY MEDICAL
SERVICES VEHICLE (SEMSV) PROGRAMS

Section
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EMS Assistance Fund Administration
A Request for Designation (RFD) Trauma Center
A Request for Renewal of Trauma Center Designation
Minimum Trauma Field Triage Criteria
Standing Medical Orders
Minimum Prescribed Data Elements
Template for In-House Triage for Trauma Centers

AUTHORITY: Implementing and authorized by the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

SOURCE: Emergency Rule adopted at 19 Ill. Reg. 13084, effective September 1, 1995 for a maximum of 150 days; emergency expired January 28, 1996; adopted at 20 Ill. Reg. 3203, effective February 9, 1996; emergency amendment at 21 Ill. Reg. 2437, effective January 31, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 5170, effective April 15, 1997; amended at 22 Ill. Reg. _____, effective _____.

SUBPART C: EMS SYSTEMS

Section 515.320 Scope of EMS Service

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- a) All Basic Life Support (BLS), Intermediate Life Support (ILS), and Advanced Life Support (ALS) services, as defined in the Act, shall be provided through EMS Systems. An individual System shall operate at one or more of those levels of service, as specified in its Program Plan and the Department's letter of approval, using vehicles licensed by the Department pursuant to the Act and this Part.
- b) All pre-hospital, inter-hospital and non-emergency medical care, as defined in the Act, shall be provided through EMS Systems, using the levels of Department licensed or approved personnel required by the Act and this Part.
- c) An EMS System shall designate a Resource Hospital, which shall have the authority and responsibility for the System, through the EMS Medical Director, as described in the Act, this Part and the System Program Plan.
- d) All other hospitals which are located within the geographic boundaries of a System and which have standby, basic or comprehensive level emergency departments must function in that System as either an Associate Hospital or Participating Hospital and follow all System policies specified in the System Program Plan (Section 3.20(b) of the Act).
- 1) All hospitals that are not already formally affiliated with a System shall do so within sixty days after April 15, 1997. A hospital may have a secondary affiliation with another System or may request a waiver to participate in a System other than that in which the hospital is geographically located. (See Section 515.150(d)(5).)
 - 2) Every System hospital shall identify the level of its emergency department services in its letter of commitment, which is part of the EMS System Program Plan to be submitted to the Department.
 - 3) An "Associate Hospital" shall provide the same clinical and communications services as the Resource Hospital, but shall not have the primary responsibility for personnel training and System operations. It shall have a basic or comprehensive emergency department with 24-hour physician coverage and a functioning intensive care and/or cardiac care unit.
 - 4) A "Participating Hospital" may or may not have communications/monitoring capabilities.
 - 5) All System hospitals shall agree to replace medical supplies and provide for equipment exchange for System vehicles.
 - 6) All System hospitals monitoring telecommunications from EMS field personnel shall provide voice orders either by the EMS Medical Director, a physician appointed by the EMS Medical Director, or an Emergency Communications Registered Nurse (ECRN).
 - 7) All System hospitals shall allow the Department, the EMS Medical Director and EMS System Coordinator access to all records, equipment, vehicles and personnel during their activities evaluating the Act and this Part.
 - e) The Resource Hospital shall appoint an EMS Medical Director (EMSMD).

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For an ILS or ALS level EMS system the EMSMD shall be a physician licensed to practice medicine in all of its branches in Illinois, and certified by the American Board of Emergency Medicine or the American Board of Osteopathic Emergency Medicine, and for a BLS level EMS System the EMSMD shall be a physician licensed to practice medicine in all of its branches in Illinois, with regular and frequent involvement in pre-hospital emergency medical services. In addition, all EMSMDs shall:

- 1) Have experience on an EMS vehicle at the highest level available within the System, or make provision to gain such experience within 12 months prior to the date responsibility for the System is assumed or within 90 days after assuming the position; and
- 2) Be thoroughly knowledgeable of all skills included in the scope of practices of all levels of EMS personnel within the System; and
- 3) Have or make provision to gain experience instructing students at a level similar to that of the levels of EMS personnel within the System; and
- 4) For ILS and ALS EMS Medical Directors, successfully complete a Department-approved EMS Medical Director's Course. (Section 3.20(c)(6) of the Act)
- f) The EMS Medical Director shall appoint an alternate EMS Medical Director and establish a written protocol addressing the functions to be carried out in his or her absence (Section 3.35(b) of the Act).
- g) An EMS System utilizing Specialized Emergency Medical Service Vehicles (SEMSVs) shall appoint and/or approve the SEMSV Medical Director(s) to manage and direct the use of SEMSVs and their personnel within the System. He or she shall be a physician who has met at least the following qualifications:
 - 1) One or more of the following:
 - A) Certified by the American Board of Emergency Medicine (ABEM) or American Osteopathic Board of Emergency Medicine (AOBEM) through the American Osteopathic Association (AOA); or
 - B) Completion of a residency in emergency or osteopathic emergency medicine as prescribed by one of the above Boards; or
 - C) Completion of a 12-month internship followed by 60 months plus 7,000 hours of hospital based emergency or osteopathic emergency medicine (2,800 of the 7,000 hours must be completed within one 24-month period), and documentation of 50 hours of related continuing education for each complete year of practice; and
 - 2) Completion of advanced cardiac life support and advanced trauma life support courses; and
 - 3) For aircraft programs, completion of training covering inflight treatment modalities, altitude physiology, and infection; and
 - 4) For watercraft programs, completion of training covering diving accident physiology and treatment, and drowning in cold, warm,

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fresh and salt water.

- h) The Resource Hospital shall appoint a full-time EMS System Coordinator, who shall be responsible for coordinating the educational and functional aspects of the System, as described in the Program Plan. He or she shall be a registered professional nurse or EMT-P licensed in the State of Illinois, and meet at least the following qualifications:

- 1) Be trained and knowledgeable in dysrhythmia identification and treatment,
 - 2) Have a diverse background in critical care, and
 - 3) Within one year after being appointed, complete in-field observation and/or participation on at least 10 ambulance runs at the highest level of service provided by the System.
- i) The Resource Hospital shall appoint an EMS Administrative Director, who shall be responsible for administrative operations of the System as described in the Program Plan.

- j) To avoid any conflict of interest, the EMS Medical Director, EMS System Coordinator and EMS Administrative Director shall notify the Department in writing of any association with an ambulance service provider through employment, contract, ownership, or otherwise specifying how he or she is answerable to or directed by such ambulance service provider concerning any matter falling within the scope of the Act or this Part. The Department shall review and address potential or actual conflicts of interest on a case-by-case basis.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 515.370 Automated Defibrillation

- a) Automated Defibrillator Operation training is a mandatory component of the EMT-P training established by Section 515.520 of this Part. Separate course approval is therefore not necessary.

- b) To be approved by the Department, a First Responder, an EMT-B or EMT-I Automated Defibrillator Operation course shall include the following:

- 1) A curriculum based on Section 9 of the United States Department of Transportation, Emergency Medical Technician-Intermediate: National Standard Curriculum;
 - 2) A requirement that the First Responder, EMT-B or EMT-I shall pass both a written and a practical examination as a condition of completing the course. The examinations shall be developed and evaluated by the EMS Medical Director or designee and shall be designed to measure the First Responder's or EMT's knowledge and skills to operate an automated defibrillator safely and effectively.
- c) A System may include the course in Automated Defibrillator Operation as part of an initial First Responder, EMT-B or EMT-I license training

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program or may offer such training to persons already approved as First Responders or licensed as an EMT-B or EMT-I.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 515.420 System Participation Suspensions

- a) An EMS Medical Director may suspend from participation within the System any individual, individual provider or other participant considered not to be meeting the requirements of the Program Plan of that approved EMS System. (Section 3.40(a) of the Act)

- b) Except as allowed in subsection (1) of this Section, the EMS Medical Director shall provide the individual, individual provider or other participant with a written explanation of the reason for the suspension; the terms, length, and condition of the suspension; and the date the suspension will commence, unless a hearing is requested. The procedure for requesting a hearing within 15 days through the Local System Review Board shall be provided.

- c) Failure to request a hearing within 15 days shall constitute a waiver of the right to a Local System Review Board hearing.

- d) The Resource Hospital shall designate the Local System Review Board, consisting of at least three members, one of whom is an emergency department physician with knowledge of EMS, one of whom is an EMT and one of whom is of the same professional category as the individual, individual provider or other participant requesting the hearing. (Section 3.40(e) of the Act) The EMS Medical Director shall prepare and post, in a 24-hour accessible location at the Resource Hospital, the System Review Board List.

- e) The hearing shall commence as soon as possible but at least within 21 days after receipt of a written request. The EMS Medical Director shall arrange for a certified shorthand reporter to make a stenographic record of that hearing and thereafter prepare a transcript of the proceedings. The transcript, all documents or materials received as evidence during the hearing and the Local System Review Board's written decision shall be retained in the custody of the EMS System. The System shall implement a decision of the Local System Review Board unless that decision has been appealed to the State Emergency Medical Services Disciplinary Review Board in accordance with the Act and this Part. (Section 3.40(e) of the Act)
- f) The Local System Review Board shall state in writing its decision to affirm, modify or reverse the suspension order. Such decision shall be sent via certified mail or personal service to the EMS Medical Director and the individual, individual provider or other participant who requested the hearing within five business days after the conclusion of the hearing.

- g) The transcripts, all documents or materials received as evidence during the hearing and the Local System Review Board's written

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decision shall be retained in the custody of the EMS System.

- h) The EMS Medical Director shall notify the Department, in writing, within five business days after the Board's decision to either uphold, modify or reverse the EMS Medical Director's suspension of an individual, individual provider or participant. The notice shall include a statement detailing the duration and grounds for the suspension.
- i) If the Local System Review Board affirms or modifies the EMS Medical Director's suspension order, the individual, individual provider or other participant shall have the opportunity for a review of the Local Board's decision of the State EMS Disciplinary Review Board. (Section 3.40(b)(1) of the Act)
- j) If the Local System Review Board reverses or modifies the EMS Medical Director's suspension order, the EMS Medical Director shall have the opportunity for review of the Local Board's decision by the State EMS Disciplinary Review Board. (Section 3.40(b)(2) of the Act)
- k) Requests for review by the State EMS Disciplinary Review Board shall be submitted in writing to the Chief of the Department's Division of Emergency Medical Services and Highway Safety, within 10 days after receiving the Local Board's decision or the EMS Medical Director's suspension order, whichever is applicable. A copy of the Board's decision or the suspension order shall be enclosed. (Section 3.45(h) of the Act)
- l) An EMS Medical Director may immediately suspend an individual, individual provider or other participant if he or she finds that the information in his or her possession indicates that the continuation in practice by an EMT or other provider would constitute an imminent danger to the public. The suspended EMT or other provider shall be issued an immediate verbal notification followed by a written suspension order to the EMT or other provider by the EMS Medical Director which states the length, terms and basis for the suspension. (Section 3.40(c) of the Act)
- 1) Within 24 hours following the commencement of the suspension, the EMS Medical Director shall deliver to the Department, by messenger or telefax, a copy of the suspension order and copies of any written materials which relate to the EMS Medical Director's decision to suspend the EMT or provider.
- 2) Within 24 hours following the commencement of the suspension, the suspended EMT or provider may deliver to the Department, by messenger or telefax, a written response to the suspension order and copies of any written materials which the EMT or provider feels relate to that response.
- 3) Within 24 hours following receipt of the EMS Medical Director's suspension order or the EMT's or provider's written response, whichever is later, the Director or the Director's designee shall determine whether the suspension should be stayed pending the EMT's or provider's opportunity for hearing or review in accordance with the Act, or whether the suspension should

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continue during the course of that hearing or review. The Director or the Director's designee shall issue this determination to the EMS Medical Director, who shall immediately notify the suspended EMT or provider. The suspension shall remain in effect during this period of review by the Director or the Director's designee. (Section 3.40(c) of the Act)

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 515.440 State Emergency Medical Services Disciplinary Review Board

- a) The Governor shall appoint a State Emergency Medical Service Disciplinary Review Board in accordance with Section 3.45 of the Act. (Section 3.45(a) of the Act)
- b) The Board shall regularly meet on the first Tuesday of every month, unless no requests for review have been submitted. Additional meetings of the Board shall be scheduled as necessary to insure that a request for direct review of an immediate suspension order is scheduled within 14 days after the Department receives the request for review or as soon thereafter as a quorum is available. The Board shall meet in Springfield or Chicago, whichever location is closer to the majority of the members or alternates attending the meeting. (Section 3.45(g) of the Act)
- c) At its regularly scheduled meetings, the Board shall review requests which have been received by the Department at least 10 working days prior to the Board's meeting date. Requests for review which are received less than 10 working days prior to a scheduled meeting shall be considered at the Board's next scheduled meeting, except that requests for direct review of an immediate suspension order may be scheduled up to 3 working days prior to the Board's meeting date. (Section 3.45(i) of the Act)
- d) A quorum shall be required for the Board to meet, which shall consist of 3 members or alternates, including the EMS Medical Director or alternate and the member or alternate from the same professional category as the subject of the suspension order. At each meeting of the Board, the members or alternates present shall select a Chairperson to conduct the meeting. (Section 3.45(j) of the Act)
- e) Deliberations for decisions Meetings of the State EMS Disciplinary Review Board shall be conducted in closed session. Department staff may attend for the purpose of providing clerical assistance, but no other persons may be in attendance except for the parties to the dispute being reviewed by the Board and their attorneys, unless by request of the Board. Meetings of the Board shall be exempt from the provisions of the Open Meetings Act. (Section 3.45(k) of the Act)
- f) The Board shall review the transcript, evidence and written decision of the local review board or the written decision and supporting documentation of the EMS Medical Director, whichever is applicable,

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along with any additional written or verbal testimony or argument offered by the parties to the dispute. (Section 3.45(1) of the Act)

g) At the conclusion of its review, the Board shall issue its decision and the basis for its decision on a form provided by the Department, and shall submit to the Department its written decision together with the record of the Local System Review Board. The Department shall promptly issue a copy of the Board's decision to all affected parties. The Board's decision shall be binding on all parties. (Section 3.45(m) of the Act)

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART D: EMERGENCY MEDICAL TECHNICIANS

Section 515.510 Emergency Medical Technician-Intermediate Training

- a) An EMT-I training program shall be conducted only by an EMS System or a community college under the direction of the EMS System.
- b) Applications for approval of EMT-I Training Programs shall be filed with the Department on forms prescribed by the Department. The application shall contain, at a minimum, name of applicant, agency and address, type of training program, lead instructor's name and address, dates of training program, and names and signatures of the EMS Medical Director and EMS System Coordinator.
- c) Applications for approval, including a copy of the class schedule and course syllabus, shall be submitted at least 60 days in advance of the first scheduled class.
- d) The EMS Medical Director of the EMS System shall attest on the application form that the training program shall be conducted according to the United States Department of Transportation's National Standard Curriculum. Minimum sections shall include #1 through #8.
- e) The EMT-I training program shall be under the direction of the EMS Medical Director and the EMS System Coordinator.
- f) The EMS System shall designate an EMS Lead Instructor, who shall be approved by the Department based on the requirements of Section 515.700.
- g) The EMS Lead Instructor shall be an EMT-I, an EMT-P, a Registered Nurse or a physician and shall have four years of experience in emergency care as a provider and two years of teaching experience in a classroom setting.
- h) Any change excluding an emergency change (e.g., weather or instructor illness) in the EMT-I training program's EMS Medical Director, EMS System Coordinator and/or EMS Lead Instructor shall require an amendment to be filed with the Department.
- i) A candidate for an EMT-I training program must have a current Illinois EMT-B license.
- j) Before a candidate is accepted into the program, documentation must be

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- submitted that an EMS System vehicle will be available to accommodate field experience.
- k) Each approved training program shall submit a student roster within 10 days after the first class as well as a student roster indicating successful or unsuccessful completion within 10 days after the last class. An examination roster shall be submitted to the Department prior to the deadline date for examination.
- l) After an EMT-I candidate has completed and passed all components of the training program, and passed the Department's exam or the National Registry examination, the EMSMD shall submit to the Department a transaction card (Form No. IL 482-0837) concerning that individual.
- m) All approved programs shall maintain class and student records for seven years, and these shall be made available to the Department upon request.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 515.520 Emergency Medical Technician-Paramedic Training

- a) An EMT-P training program shall be conducted only by an EMS System or a community college under the direction of the EMS System.
- b) Applications for approval of EMT-P training programs shall be filed with the Department on forms prescribed by the Department. The application shall contain, at a minimum, name of applicant, agency and address, type of training program, dates of training program, and names and signatures of the EMS Medical Director and EMS System Coordinator.
- c) Applications for approval, including a copy of the class schedule and course syllabus, shall be submitted at least 60 days in advance of the first scheduled class.
- d) The EMS Medical Director of the EMS System shall attest on the application form that the training program shall be conducted according to the United States Department of Transportation's National Standard Curriculum. The EMT-P training program shall include all components of the National Standard Curriculum.
- e) The EMT-P training program's lead coordinators shall be the EMS Medical Director and the EMS System Coordinator.
- f) Any change excluding an emergency change (e.g., weather or instructor illness) in the EMT-P training program's EMS Medical Director and/or EMS System Coordinator shall require an amendment to be filed with the Department.
- g) A candidate for an EMT-P training program must have a current Illinois EMT-B or EMT-I license.
- h) Before a candidate is accepted into the program, documentation must be submitted that an EMS System vehicle will be available to accommodate field experience and internship needs.
- i) Each approved training program shall submit a student roster within 10

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days after the first class as well as a student roster indicating successful or unsuccessful completion within 10 days after the last class. An examination roster shall be submitted to the Department prior to the deadline date for examination.

- j) After an EMT-P candidate has completed and passed all components of the training program, and passed the Department or National Registry examination, the EMSMD shall submit to the Department a transaction card (Form No. IL 482-0837) concerning that individual.
- k) All approved programs shall maintain class and student records for seven years, and these shall be made available to the Department upon request.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 515.540 EMT Licensure

- a) To be licensed by the Department as an EMT-B, an individual must:

1) Pass either the National Registry of Emergency Medical Technicians examination or the Department's EMT-B examination with a score of at least 70 percent.

2) Be functioning within a State-approved EMS System providing basic life support services, as verified by that System's EMS Medical Director.

- b) To be licensed by the Department as an EMT-I, an individual must:

1) Pass either the National Registry of Emergency Medical Technicians examination or the Department's EMT-I examination with a score of at least 70 percent.

2) Be functioning within a State-approved EMS System providing intermediate life support services, as verified by that System's EMS Medical Director.

- c) To be licensed by the Department as an EMT-P, an individual must:

1) Pass either the National Registry of Emergency Medical Technicians examination or the Department's EMT-P examination with a score of at least 70 percent.

2) Be functioning within a State-approved EMS System providing advanced life support services, as verified by that System's EMS Medical Director.

- d) An EMT license will specify the level of licensure, i.e., EMT-B, EMT-I OR EMT-P, and will be effective for a period of four years.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART E: EMS LEAD INSTRUCTOR, EMERGENCY MEDICAL DISPATCHER, FIRST RESPONDER, PRE-HOSPITAL REGISTERED NURSE, EMERGENCY COMMUNICATIONS REGISTERED NURSE, AND TRAUMA NURSE SPECIALIST

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Section 515.725 First Responder - AED

- a) A person currently approved as a First Responder may utilize an automated defibrillator if the First Responder:

1) Has successfully completed a Department approved course in automated defibrillator operation; and

2) Is functioning within a Department approved EMS System providing first response services as verified by the EMSMD. (Section 3.55(a-5) of the Act)

- b) Continuing education classes, seminars, clinical time, workshops or other types of programs shall be approved by the Department before being offered to First Responder - AEDs. An application for approval shall be submitted to the Department on a form prescribed, prepared and furnished by the Department, at least 60 days prior to the scheduled event.

- c) Approval will be granted provided the application is complete and the content of the program is based on topics or materials from the United States Department of Transportation National Standard Curriculum for First Responder - AEDs. Upon approval, the Department will issue a site code to the class, seminar, workshop or program.

- d) A First Responder - AED shall be responsible for submitting written proof of continuing education attendance to the EMS System Coordinator or the Department Regional EMS Coordinator. The EMS System Coordinator or Department Regional EMS Coordinator shall be solely responsible for verifying whether specific continuing education hours have been earned by the First Responder - AED.

- e) A First Responder - AED shall be responsible for maintaining copies of all documentation concerning continuing education programs that he or she has completed.

- f) To be re-registered as a First Responder - AED, the First Responder - AED shall file an application for renewal with the Department, on a form prescribed by the Department, at least 30 days prior to the license expiration date.

1) The submission of a transaction card (Form No. IL 482-0837) by the EMS Medical Director will satisfy the renewal application requirement for a First Responder - AED who has been recommended for re-registration by the EMS Medical Director.

2) A First Responder - AED who has not been recommended for re-registration by the EMS Medical Director must independently submit to the Department an application for renewal. The EMS Medical Director shall provide the First Responder - AED with a copy of the appropriate form to be completed.

- g) A written recommendation signed by the EMSMD must be provided to the Department regarding completion of the following requirements:

1) Twenty-four hours of continuing education every four years. The System shall define in the EMS Program Plan the number of continuing education hours to be accrued each year for re-registration; and

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- 2) A current CPR completion card that covers:
- A) Adult one-rescuer CPR,
 - B) Adult foreign body airway obstruction management,
 - C) Pediatric one-rescuer CPR,
 - D) Pediatric foreign body airway obstruction management, and
 - E) Adult two-rescuer CPR.
- h) At any time prior to the expiration of the current registration, a First Responder - AED may revert to First Responder status for the remainder of the registration period. The First Responder must make this request in writing to the Department. To re-register at the First Responder - AED level, the individual must meet the First Responder - AED requirements for re-registration.
- i) A First Responder - AED who has reverted to First Responder status may be subsequently re-registered as a First Responder - AED, upon the recommendation of an EMS Medical Director who has verified that the individual's knowledge and clinical skills are at an active First Responder - AED level, and that the individual has completed any retraining, education or testing deemed necessary by the EMSMD for resuming First Responder - AED activities.
- j) Any First Responder whose registration has expired for a period of more than 60 days shall be required to reapply for registration, complete the training program and pass the test, and pay the fees as required for initial registration (see subsection (k)).
- k) A First Responder - AED whose registration has expired may, within 60 days after registration expiration, submit all re-registration material as required in this Part and a fee of \$50 in the form of a certified check or money order (cash or personal check will not be accepted). If all material is in order and there is no disciplinary action pending against the First Responder - AED, the Department will re-register the First Responder - AED.

(Source: Added at 22 Ill. Reg. _____, effective _____)

SUBPART H: TRAUMA CENTERS

Section 515.2000 Trauma Center Designation

- a) The Department shall attempt to designate trauma centers in all areas of the State. There shall be at least one Level I Trauma Center serving each EMS Region, unless waived by the Department. Level I Trauma Centers shall serve as resources for Level II Trauma Centers in the EMS Regions. The extent of such relationships shall be defined in the EMS Region plan. (Section 3.90(b)(5) of the Act)
- b) Any hospital seeking designation as a Level I or Level II Trauma Center shall submit an application form (see Section 515.2000 Appendix A of this Part) as prescribed by the Department.
- c) Upon receipt of a completed application, the Department shall conduct

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- a site visit to determine compliance with the Act and this Part. A report of the inspection shall be provided to the Director within 30 days of the completion of the site visit. (Section 3.90(b)(3) of the Act)
- d) The Department shall designate those applicant hospitals as Level I or Level II Trauma Centers which meet the requirements established by the Act and this Part. Beginning September 1, 1997 the Department shall designate a new Trauma Center only when a local or Regional need for such a Trauma Center has been identified by the applicable EMS Region's Trauma Center Medical Directors Committee, with advice from the Regional Trauma Advisory Committee. (Section 3.90(b)(4) of the Act)
- e) A Trauma Center designation shall be for two years.
- f) All requests for renewal of Trauma Center designations shall be filed in writing (see Section 515.2000 Appendix B of this Part) with the Department before the designation expiration date. If the renewal request meets the requirements of this Part, the existing designation shall continue in full force and effect until a final Department decision on the renewal request has been issued.
- g) Any Level Trauma Center may voluntarily terminate its designation prior to its expiration date by notifying the Department in writing. Such notification shall include the anticipated date of termination, which shall not exceed 60 days after notice is received by the Department, and shall describe the procedures taken by the Trauma Center to notify the providers, hospitals, EMS systems and other Trauma Centers in the EMS Region.
- h) No facility shall use the phrase "Trauma Center" or words of similar meaning in relation to itself or hold itself out as a Trauma Center without first obtaining designation pursuant to the Act and this Part. (Section 3.105 of the Act)

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 515.2040 Level II Trauma Center Designation Criteria

- a) A Level II Trauma Center, under the direction of a Level II Trauma Center Medical Director, shall be responsible for providing trauma care in accordance with the EMS System Program Plan.
- b) The Trauma Center Medical Director shall be a trauma surgeon, board certified in surgery, with at least one year of experience in trauma care and with 24-hour independent operating privileges.
- c) The trauma center shall provide a trauma service separate from the general surgery service, which is an identified hospital service functioning under a designated director and staffed by trauma surgeons with one year of experience in trauma, and who will arrive at the hospital to treat the trauma patient within 30 minutes after the patient's being classified as a Category I trauma patient.

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- 1) The trauma surgeon requirement may be fulfilled by residents with a minimum of four years of general surgery residency training.
- 2) If the resident is fulfilling the trauma surgeon requirement, the attending physician must be consulted within 30 minutes after the patient's being classified as Category I or II.
- 3) If the resident is fulfilling the trauma surgeon requirement, it is mandatory that an attending be present for patients undergoing operative procedures by the time the surgery begins.
- 4) The trauma surgeon, resident or surgical subspecialist will be consulted when the decision is made to admit a Category II patient. The trauma surgeon or appropriate subspecialist will see the patient within 12 hours after ED arrival.
- 5) The hospital's quality improvement program shall monitor compliance with this subsection (c).
- 6) The trauma center shall maintain a call schedule that identifies at least a primary and back-up surgeon, each listed by surgeon's name.
- 7) The trauma center shall have the option of allowing the ED personnel to determine that a trauma patient with an isolated injury may be treated by one of the services listed in subsection (d) or (e) of this Section. Any patient meeting the definition of isolated injury requires consultation with the appropriate subspecialist within 60 minutes after the notification that his or her services are needed at the hospital. When the need for neurosurgical intervention has been identified, the neurosurgeon must arrive and be available in a fully staffed operating room within 60 minutes after the identification of need for operative intervention. An isolated injury refers to the transfer of energy to a single specific anatomic body region with no potential for multisystem involvement.
- d) The trauma center shall have the following surgical services on call to arrive at the hospital to treat the patient within 60 minutes after notification that their services are needed:
 - 1) Cardiothoracic; this requirement may be fulfilled by a cardiothoracic surgeon or a trauma/general surgeon with experience in cardiothoracic surgery for lifesaving procedures; the surgeon must have cardiothoracic privileges;
 - 2) Obstetrics;
 - 3) Orthopedic; and
 - 4) Urologic.
- e) The trauma center shall have the following surgical specialties on call to arrive at the hospital to treat the patient within 60 minutes after notification that their services are needed. These services may be provided by written transfer agreement. These services must be provided according to subsection (c)(7) of this Section for isolated injuries when the trauma surgeon is not required to respond:
 - 1) Neurosurgical;
 - 2) Ophthalmologic;

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- 3) Oral-Dental;
- 4) Otorhinolaryngologic;
- 5) Reimplantation;
- 6) Plastic/Maxillofacial;
- 7) Burn center staffed by Registered Nurses trained in burn care;
- 8) Acute spinal cord injury management; and
- 9) Pediatric surgery.
- f) The trauma center shall provide the following nonsurgical services within the designated times:
 - 1) Emergency Medicine staffed 24 hours a day in the ED by:
 - A) A physician who has competency in trauma as demonstrated by:
 - i) Board certification by the ABEM; or
 - ii) Completion of 12 months of internship, followed by at least 7000 hours of hospital-based Emergency Medicine over at least a 60-month period (including 2800 hours within one 24-month period), verified in writing by the hospital(s) at which the internship and subsequent hours were completed, and continuing medical education in Emergency Medicine totalling 50 hours for each post-internship year in which the physician completed any hospital-based Emergency Medicine hours (the physician may attend less than 50 hours in any given year provided the total number averages 50 hours per year of practice); or
 - iii) Completion of a residency in Emergency Medicine in a residency program approved by the Residency Review Committee for Emergency Medicine or the Council on Postdoctoral Training (COPT) for the AOA; and
 - B) An osteopathic physician certified by the AOBEM of the AOA.
 - 2) Anesthesiology Services:
 - A) Anesthesiology services shall be in compliance with the Hospital Licensing Act and the Hospital Licensing Requirements, 77 Ill. Adm. Code 250.1410. Staff shall be on call to arrive at the hospital to administer anesthesia within 30 minutes after notification that their services are needed at the hospital.
 - B) Direct patient care services may be performed by an anesthesiologist or a CRNA.
 - 3) Laboratory -- 24 hours a day in-house, providing the following:
 - A) Standard analysis of blood, urine, and other body fluids;
 - B) Blood typing and cross-matching;
 - C) Coagulation studies;
 - D) Comprehensive blood bank or access to a community central blood bank and adequate hospital storage facilities (see Hospital Licensing Requirements, 77 Ill. Adm. Code 250, specifically Section 250.520);
 - E) Blood gases and pH determinations;
 - F) Microbiology, to include the ability to initiate aerobic and

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anaerobic cultures on a 24 hour per day basis; and

- G) Drug and alcohol screening.
- 4) Radiology staffed by:
 - A) A technician with the ability to perform a CAT scan available within 30 minutes; and
 - B) A radiologist with the ability to read CAT scans and perform association available within 60 minutes. This requirement may be met by a PGY II radiology resident or PGY I resident with six months experience in CAT and association. The radiology department shall provide a quality monitoring process to validate the resident's compliance with the time requirements and competency to read CAT scans and perform association. Teleradiographic equipment may be used to transmit CAT scans off site in lieu of the radiologist's response to the trauma center to read CAT scans.
- 5) Cardiology -- 60 minutes.
- 6) Internal Medicine -- 60 minutes.
- 7) Postanesthetic recovery capability staffed and available within 30 minutes.
- 8) Intensive Care Medicine Unit having available the following:
 - A) A physician credentialed by the hospital and available within 30 minutes. This requirement may be fulfilled by second and third year residents who have had intensive care training and are under the supervision of a staff physician possessing full intensive care privileges;
 - B) Registered Professional Nurses 24 hours a day in the Intensive Care Unit; and
 - C) The following equipment 24 hours a day in-house:
 - i) Airway control and ventilation devices;
 - ii) Oxygen source with concentration controls;
 - iii) Cardiac emergency cart;
 - iv) Electrocardiograph-oscilloscope-defibrillator;
 - v) Temperature control devices;
 - vi) Drugs, intravenous fluids, and supplies in accordance with the Hospital Licensing Requirements, 77 Ill. Adm. Code 250, specifically Sections 250.1050, 250.2140, and 250.2710; and
 - vii) Mechanical ventilator-respirators.
- 9) Pediatrics -- 60 minutes.
- 10) Acute hemodialysis capability 24 hours a day or a transfer agreement.
- g) The trauma center shall meet the following professional staff requirements:
 - 1) The ED Director shall be a physician board certified by the ABEM, or a physician who has completed 12 months of internship, followed by 60 months plus 7000 hours of hospital-based Emergency Medicine (2800 of the 7000 hours must be completed within one 24-month period), and 50 hours of continuing medical education in

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Emergency Medicine for each complete year of practice, or a physician who has completed a residency program approved by the Residency Review Committee for Emergency Medicine or by the AOA;

- 2) Each shift in the ED will be staffed by at least one Registered Nurse who has completed a Trauma Nurse Specialist Course as specified in Section 515.750 of this Part. A back-up policy shall provide for a nurse with experience evidenced by TNCC or 16 hours equivalent in trauma nursing education, approved by the Department, in a four-year period. A back-up schedule must be maintained;
- 3) A Trauma Coordinator dedicated to the Trauma program; and
- 4) An operating room shall be staffed and available within 30 minutes 24 hours a day.

h) The trauma center shall provide and maintain the following equipment:

- 1) Airway control and ventilation equipment including laryngoscopes and endotracheal tubes of appropriate sizes, bag-mask, resuscitator, sources of oxygen, and mechanical ventilator;
 - 2) Suction device;
 - 3) Electrocardiograph-oscilloscope-defibrillator;
 - 4) Apparatus to establish central venous pressure monitoring;
 - 5) All standard intravenous fluids and administration devices;
 - 6) Sterile surgical sets of procedures standard for ED, such as cricothyrotomy, tracheostomy, thoracotomy, and cut down;
 - 7) Gastric lavage equipment;
 - 8) Drugs and supplies necessary for emergency care;
 - 9) X-ray and CAT scan capability, available within 30 minutes;
 - 10) Spinal immobilization equipment;
 - 11) Temporary pacemaker; and
 - 12) Specialized pediatric resuscitation cart in the emergency area.
- i) The trauma center must have helicopter landing capabilities approved by State and federal authorities. (Section 3.100(j) of the Act) The helicopter landing capabilities shall:
- 1) Comply with the Aviation Safety Rules of the Illinois Department of Transportation (92 Ill. Adm. Code 14, specifically Sections 14.790, 14.792 and 14.795);
 - 2) Be covered by a favorable airspace determination letter issued by the Federal Aeronautics Administration pursuant to Sections 307 and 309 of the Federal Aviation Act of 1958, and 14 CFR 157 and 14 CFR 77, Subpart D; and
 - 3) Be provided on the campus of the trauma center.
- Out-of-state trauma centers are exempted from this subsection (i) but must comply with their state's rules that govern aviation safety.
- j) The trauma center shall perform focused outcome analyses of its trauma services on a quarterly basis and shall provide all minutes related to these reviews on site or at the request of the Department. The analyses shall consist of at least:
- 1) Review of all patient deaths, excluding dead on arrival (DOA). Patients must be assigned a status of non-preventable death,

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potentially preventable death, or preventable death using the American College of Surgeons "Guidelines for Judgment Regarding Mortality" (from "Resources for the Optimal Care of the Injured Patient"). Factors contributing to the death must be included in the review according to the American College of Surgeons "Contributing Factors and Guidelines for Assigning Contributing Factors Related to Morbidity/Mortality" (from "Resources for the Optimal Care of the Injured Patient"). A cumulative report of these findings shall be available on site and upon request by the Department.

- 2) Review of all morbidities. A morbidity is a negative outcome that is the result of the original trauma and/or treatment rendered or omitted. Factors contributing to the morbidity must be included in the review according to the American College of Surgeons "Contributing Factors and Guidelines for Assigning Contributing Factors Related to Morbidity/Mortality." A cumulative report of these findings must be presented quarterly to the Region.
- 3) Review of audit filters. An audit filter is a clinical and/or internal resource indicator used to examine the process of care and to identify potential patient care and/or internal resource problems.
- 4) All information contained in or relating to any medical audit performed of a trauma center's trauma services pursuant to the Act, or by an EMSND or his designee of medical care rendered by system personnel, shall be afforded the same status as is provided information concerning medical studies in Article VIII, Part 21 of the Code of Civil Procedure. (Section 3.110(a) of the Act)
- k) Every two years the trauma center shall provide written protocols concerning the following:
 - 1) The treatment of trauma patients in the trauma center, which includes Trauma Category I and Trauma Category II criteria as required in Section 515.205, Appendices C and F of this Part;
 - 2) The transfer of trauma patients to the Level I Trauma Center serving the EMS Region or a more specialized level of care;
 - 3) A policy that blood alcohol will be drawn on a motor vehicle crash victim who is believed to have been the driver of the vehicle.
- l) Changes to the Trauma Center Plan must be approved by the Department prior to implementation.
- m) The practices of the trauma center shall reflect the protocols and policies of the EMS Region and Trauma Center Plan.
- n) The resuscitation care of a Trauma Category I or Trauma Category II patient must be documented on a Trauma Flow Sheet, which at minimum contains trauma category classification; time and place of classification (field or in-house); time of arrival of patient to trauma center; notification of surgical specialties and time of

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arrival to see patient (may exclude isolated injuries for Category II patients).

- o) The trauma center shall maintain a job description for the Trauma Center Medical Director, which details his/her responsibility and authority for the coordination and management of trauma services.
- p) The trauma center shall maintain a job description for the Trauma Coordinator, which details the responsibility and authority for the coordination and management of trauma services.
- q) The trauma center shall develop a policy that identifies situations that would result in trauma bypass. This policy shall include notification of procedures for pre-hospital personnel and surrounding trauma centers.
 - 1) Such diversion must be reported to the Department by telephone if it occurs during business hours. Otherwise, written notification of diversion must be sent no more than 48 hours following the diversion.
 - 2) Both forms of notification shall include at minimum:
 - A) The name of the trauma center;
 - B) Date and time of resource limitation; and
 - C) The reason for resource limitation.
- r) The trauma center shall develop a plan for implementing a program of public information and education concerning trauma care for adult and pediatric patients.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 515.2050 Trauma Center Uniform Reporting Requirements

- a) Each trauma center shall have available to the Trauma Service use of an IBM compatible personal computer capable of handling the software contracted by the Department and that meets the following general standards: 486 microprocessor, 32 megabytes Random Access Memory (RAM), adequate hard drive space to accommodate the trauma center's data files and needs, at least 14.4kbs modem, color monitor, printer and back-up capability. The Department shall provide Trauma Registry software for use by the trauma center. This software shall be used for data collection and shall have a provision to prepare electronic media reports to the Department on a quarterly basis.
- AGENCY NOTE: For example, Windows 95 would meet these requirements.
- b) The trauma center shall provide the following information on each reportable trauma patient:
 - 1) Registry Number;
 - 2) Medical Record Number;
 - 3) Name (first and last);
 - 4) Address, City, State, County city--state--county and Zip Code zip;
 - 5) EMS Region;

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- 6) Age;
 7) Sex;
 8) Race;
 9) **Injury-Type**,
 9)10) Mechanism of Injury (International Classification of Disease (ICD) 9 E codes - 4 digits);
 10)11) Safety Equipment;
 11)12) Hospital Transfer From and Hospital Transfer To;
 12)13) Vehicle Number for all Transporting Agencies; **Transport-Mode**;
 13)14) Run Sheet;
 14)15) Date Arrived At Scene (only for when pre-hospital transport is involved);
 15)16) ED Arrival Date;
 16)17) ED Disposition Date;
 17)18) Glasgow Coma Scale Components (Eye, Motor, Verbal and Total) in ED;
 18)19) First Temperature in ED;
 19)20) ED Blood Pressure, Pulse, Respiratory Rate;
 20)21) ED Revised Trauma Score;
 21)22) ED Triage Category;
 22)23) Minimum Field Triage Criteria;
 23)24) ED Treatment;
 24)25) Blood Alcohol level in all drivers in motor vehicle crashes;
 25)26) Blood Units Administered;
 26)27) Physician Type, Notification Time, Arrival Time;
 27)28) Admitting Service;
 28)29) Medical Complications;
 29)30) Total ICU Days, Monitored Bed Days and Unmonitored Bed Days;
 30)31) Number of Ventilator Days;
 31)32) Surgery Performed, Surgery Date;
 32)33) Additional Surgeries;
 33)34) Abbreviated Injury Scale for each injury;
 34)35) Injury Severity Score (ISS) range 1-75;
 35)36) Primary Pay Source;
 36)37) Discharge Condition and Date; and
 37)38) Total Hospital Days;
 38) Crash Record Number;
 39) Pre-Hospital Record Number;
 40) Injury Date and Time;
 41) System Access;
 42) Scene FIPS Code;
 43) Work Related;
 44) Date Arrived at Transferring Hospital;
 45) Time Arrived at Transferring Hospital;
 46) Glasgow Coma Scale at Transferring Hospital;
 47) Systolic Blood Pressure at Transfer In Hospital;
 48) Respiratory Rate at Transfer In Hospital;
 49) Care at Transfer In Hospital;

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- 50) Date Out of Transfer Hospital;
 51) Time Out of Transfer Hospital;
 52) Pre-Hospital Response Minutes;
 53) Pre-Hospital Scene Minutes;
 54) Pre-Hospital Transportation Minutes;
 55) Pre-Hospital Glasgow Total;
 56) Pre-Hospital Systolic Blood Pressure;
 57) Pre-Hospital Respiratory Rate;
 58) Emergency Department Arrival Time;
 59) Drug Screen;
 60) Emergency Department Glasgow Coma Scale Total;
 61) Minutes Prior to CT Scan;
 62) Admit to Physician Number;
 63) Time of First Operation;
 64) ICD-9-CM Procedure Codes;
 65) Unanticipated Operation;
 66) Return to Operating Room;
 67) ICD-9-Nature of Injury Codes 800-959;
 68) Scene City, Address, Zip Code;
 69) Vehicle Position of Driver;
 70) Pre-Hospital Patient Contact Time;
 71) Emergency Department Triage Time;
 72) Emergency Department Reason for Transfer;
 73) Emergency Department Disposition Deaths;
 74) Medical Complications;
 75) Hospital Discharge Disposition;
 76) Expression;
 77) Feeding;
 78) Locomotion; and
 79) Total Hospital Charges.
 c) Reportable trauma patients
 1) A reportable trauma patient is one who was involved in a traumatic event and:
 A) was transferred to the trauma center from another hospital;
 B) was transferred from the trauma center to another hospital;
 C) was admitted to the trauma center as an inpatient;
 D) was assigned an observation status and had a length of stay greater than 12 hours from time of arrival in the ED;
 E) was dead on arrival (DOA);
 F) died in the emergency department (DIE); or
 G) signed out against medical advice after refusing admission (AMA).
 2) A traumatic event is one in which there was a transfer of energy resulting in injury, involving any of the following:
 A) aircraft;
 B) watercraft;
 C) motor vehicles;
 D) railway;

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- E) recreational vehicles;
 F) farm machinery;
 G) animals, including bites;
 H) explosion;
 I) falls;
 J) thermal (including smoke inhalation)/chemical/radiation injuries;
 K) lightning;
 L) weather related (tornado, flood, blizzard) injuries;
 M) struck by falling object;
 N) sports related;
 O) caught between objects;
 P) cutting or piercing instruments or objects;
 Q) firearms;
 R) electric current;
 S) suicide or self-inflicted injury;
 T) homicide;
 U) injury inflicted by others;
 V) hanging; or
 W) strangulation.
- d) Illinois trauma registry reporting schedule

Patients Discharged	Report Date
January - March	June 30
April - June	September 30
July - September	December 31
October - December	March 31

- e) Data shall be collected for all trauma patients in the State for each level of Injury Severity Score mean mortality rates, and standard deviations shall be calculated using standard statistical methods. Trauma centers with mortality rates more than one standard deviation above the mean in three or more ISS levels shall have an in-depth evaluation by the Department prior to renewal of designation. Trauma centers with mortality rates more than two standard deviations above the mean in any ISS level less than 25 shall also be evaluated for compliance with the Act and this Part prior to renewal of designation. The Department shall review a trauma center whose annual morbidity falls two standard deviations above the mean.
- f) Data collected from individual trauma centers shall be cross-referenced with Vital Records Death Certificates to confirm accuracy.
- g) Annual reports shall be prepared by the Department presenting summary data to allow trauma centers to evaluate performance. This data shall have all hospital and patient identifiers removed.
- h) All data received by the Department shall be kept confidential. Patient identifiers shall be kept in such a way to assure that confidentiality is maintained and is not available to the public.

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- 1) All reports and records made pursuant to the Head and Spinal Cord Injury Act [410 ILCS 515] and maintained by the Department and other appropriate persons, officials and institutions pursuant to the Head and Spinal Cord Injury Act shall be confidential. Information shall not be made available to any individual or institution except to:
- Appropriate staff of the Department;
 - Any person engaged in a bona fide research project, with the permission of the Director of Public Health, except that no information identifying the subjects of the reports or the reporters shall be made available to researchers unless the Department requests and receives consent for such release pursuant to the provisions of this Section; and
 - The Advisory Council on Spinal Cord and Head Injuries, except that no information identifying the subjects of the reports or the reporters shall be made available to the Council unless consent for release is requested and received pursuant to the provisions of this Section. Only information pertaining to head and spinal cord injuries as defined in Section 1 of the Head and Spinal Cord Injury Act shall be released to the Council. (Section 3 of the Head and Spinal Cord Injury Act)
- 2) The Department shall not reveal the identity of a patient, physician or hospital, except that the identity of the patient may be released upon written consent of the patient, parent or guardian, the identity of the physician may be released upon written consent of the physician, and the identity of the hospital may be released upon written consent of the hospital. (Section 3 of the Head and Spinal Cord Injury Act)
- 3) The Department shall request consent for release from a patient, a physician or hospital only upon a showing by the applicant for such release that obtaining the identities of certain patients, physicians or hospitals is necessary for his bona fide research directly related to the objectives of the Head and Spinal Cord Injury Act. (Section 3 of the Head and Spinal Cord Injury Act)
- i) Availability of Registry Information
- All requests by medical or epidemiologic researchers for confidential registry data must be submitted in writing to the registry. The request must include a study protocol that contains: objectives of the research; rationale for the research, including scientific literature justifying current proposal; overall study methods, including copies of forms, questionnaires, and consent forms used to contact facilities, physicians or study subjects, including methods for documenting compliance with 42 CFR 2A, pars. 4 ambulance, 6 a-b, 7 a-b; methods for the processing of data; storage and security measures taken to ensure confidentiality of patient identifying information; time frame of the study; a description of the

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funding source of the study (e.g., federal contract); the curriculum vitae of the principal investigator; and a list of collaborators. In addition, the research request must specify what patient or facility identifying information is needed and how the information will be used.

2) All requests to conduct research and modifications to approved research proposals involving the use of data that includes patient or facility identifying information shall be subject to a review to determine compliance with the following conditions:

- A) The request for patient or facility identifying information contains stated goals or objectives;
- B) The request documents the feasibility of the study design in achieving the stated goals and objectives;
- C) The request documents the need for the requested data to achieve the stated goals and objectives;
- D) The requested data can be provided within the time frame set forth in the request;
- E) The request documents that the researcher has qualifications relevant to the type of research being conducted;
- F) The research will not duplicate other research already underway using the same registry data when both require the contact of a patient, reporting facility or physician about an individual patient involved in the previously approved concurrent research; and
- G) Other such conditions relevant to the need for the patient or facility identifying information and the patient's confidentiality rights, because the Department will only release the name of the patient, physician (in accordance with the provisions of this Section) or facility identifying information that is necessary for the research.

3) Research Agreements

A) The Department will enter into research contracts for all approved research requests. These contracts shall specify exactly what information is being released and how it can be used in accordance with the standards in subsection (c) of this Section. In addition, the researcher shall include an assurance that:

- i) Use of data is restricted to the specifications of the protocol;
- ii) Any and all data that may lead to the identity of any patient, research subject, physician, other person, or hospital is strictly privileged and confidential and that such data will be kept strictly confidential at all times;
- iii) All officers, agents and employees will keep all such data strictly confidential; will communicate the requirements of this subsection to all officers, agents, and employees; will discipline all persons who

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may violate the requirements of this Section; and will notify the Department in writing within 48 hours after any violation of this subsection, including full details of the violation and corrective actions to be taken;

- iv) All data provided by the Department pursuant to the contract may only be used for the purposes named in the contract and that any other or additional use of the data may result in immediate termination of the contract by the Department; and
 - v) All data provided by the Department pursuant to the contract is the sole property of the Department and may not be copied or reproduced in any form or manner and that all data and all copies and reproduction of the data will be returned to the Department upon termination of the contract.
- B) Any departures from the approved protocol must be submitted in writing and approved by the Director in accordance with subsection (c)(2) of this Section prior to initiation. No patient or facility identifying information may be released by a researcher to a third party.
- 4) The Department shall disclose individual patient or facility information to the reporting facility that originally supplied that information to the Department, upon written request of the facility.
- j) The patient identifying information submitted to the Department by those entities required to submit information under the Act and this part is to be used in the course of medical study under part 21 of Article 8 of the Code of Civil Procedure [735 ILCS 5]. Therefore, this information is privileged from disclosure by Part 21 of Article 8 of the Code of Civil Procedure.
- k) The identity of any facility, or any group of facts that tends to lead to the identity of any person whose condition or treatment is submitted to the Department, shall not be open to public inspection or dissemination. Such information shall not be available for disclosure, inspection or copying under the Freedom of Information Act or the State Records Act. All information for specific research purposes may be released in accordance with procedures established by the Department in this Section.
- l) Every hospital shall provide representatives of the Department with access to information from all medical, pathological, and other pertinent records and logs related to reportable registry information. The mode of access and the time during which this access will be provided shall be by mutual agreement between the hospital and the Department. The Department shall not require hospitals to provide information on cases that are dated more than two years before the Department's request for further information.
- m) Every hospital shall provide access to information regarding specified

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patients or other patients specified for research studies, related to reportable registry information, conducted by the Department. Any disputes as to access shall be resolved by the hospital and the Department within 30 days after requests for access have been denied.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 515.2060 Trauma Patient Evaluation and Transfer

- a) Patients who are determined in the pre-hospital setting to have sustained hypotension or are victims of cavity penetration of the neck or torso or any other trauma patient as deemed by medical control shall be classified as trauma patients in the field. The trauma surgeon response time begins at the time of field classification. The patient shall be immediately evaluated upon arrival at the ED.
- b) Patients who are not classified in the field must be evaluated within 10 minutes after arrival at the trauma center. This evaluation shall be conducted by the attending ED physician or designee. "Designee", for the purposes of this Section, may refer to ED staff including, but not limited to, a surgeon acting as the ED attending, resident physician, Physician Assistant, or Registered Nurse. By the time the 10 minute evaluation period has elapsed, the patient must be determined to be a Category I trauma patient (Section 515.2040(c) and F of this Part) or Category II (Section 515.2030(c) or not to have met either Category I or II criteria. A patient cannot be downgraded once a category has been assigned. Upgrade to a Category I or II may occur at any time the patient's condition warrants. The trauma or specialty surgical response time begins at the time of upgrade.
- c) EMS Regions or trauma centers may develop triage criteria that expand Category I and II criteria but may not delete any of the minimal criteria in Section 515.2030(c) of this Part.
- d) The response period for trauma or specialty surgery for Category I or II patients is as specified in Section 515.2030(c), Section 515.2040(c) and Section 515.2040(f) of this Part.
- e) Trauma patients being transferred to a Level I or Level II facility or to more specialized care should be enroute within two hours after arrival when stabilized within the capabilities of the referring institution.
- f) The Revised Trauma Score, as specified by the American College of Surgeons, Trauma-Society, shall be used in all trauma centers. The Revised Trauma Score is determined by using the following criteria:

1) Respiratory Rate	Value	Points
	Greater-than-29/Min	4
	10-29/Min	
	>29/Min to 29/Min	3

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6-8/Min 2
1-5/Min 1
0 0

2) Systolic Blood Pressure greater than 89mmHg
76-89mmHg 4
50-75mmHg 3
1-49mmHg 2
no pulse 0

3) Glasgow Coma Scale

A) Eye Opening Response Points
Spontaneous 4
To Voice 3
To Pain 2
None 1

B) Best Verbal Response
Oriented 5
Confused 4
Inappropriate Words 3
Incomprehensible Sounds 2
None 1

C) Best Motor Response
Obeys Commands 6
Localizes (Pain) 5
Withdraw (Pain) 4
Flexion (Pain) 3
Extension (Pain) 2
None 1

Total GCS

13-15 = 4
9-12 = 3
6-8 = 2
4-5 = 1
<4 = 0

Revised Trauma Points

4) Revised Trauma Score = Total Points 1 + 2 + 3

g) Each EMS Region may include other criteria in addition to the Revised Trauma Score in defining a trauma patient and specifying where trauma patients should be transported according to the severity of the injury.

h) The components of Section 515.2060 Appendix D of this Part shall be included in the trauma center policy.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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Section 515.APPENDIX C Minimum Trauma Field Triage Criteria*

- SUSTAINED HYPOTENSION - BP < 90 SYSTOLIC (PEDI < 80 SYSTOLIC) ON TWO CONSECUTIVE MEASUREMENTS FIVE MINUTES APART
- CAVITY PENETRATION OF TORSO OR NECK

-YES-->

MANDATORY NOTIFICATION
OF THE TRAUMA SURGEON FROM THE FIELDNO
↓Category I
Blunt or Penetrating Trauma With Unstable Vital Signs And/Or

• Hemodynamic Compromise As Evidenced By

- BP > 90 systolic
- (Peds - BP < 80 systolic)
- Respiratory Compromise as Evidenced By
- Respiratory rate < 10 or > 29
- Altered Mentation as Evidenced By
- Glasgow Coma Scale < 10

Anatomical Injury

- Penetrating injury of head, neck, torso, groin
- Two or more body regions with potential life or limb threat
- Combination trauma with > 20% TBSA Burn
- Amputation above wrist or ankle
- Limb paralysis and/or sensory deficit above the wrist and ankle
- Flail chest
- Two or more proximal long bone fractures

-YES-->

- Initiate Field Trauma Treatment Protocols
- Rapid Transport To Trauma Center (1)

NO
↓

Category II

Mechanism of Injury

- Ejection from motor vehicle
- Death in same passenger compartment
- Falls > 20 feet
- (Peds - falls > three time body length of child)
- Pregnancy > 24 weeks

-YES-->

NO
↓

- Initiate Field Trauma Treatment Protocols And Transport to Closest Hospital

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Section 515.APPENDIX C Minimum Trauma Field Triage Criteria

Minimum Trauma Field Triage Criteria*

- (1) > 25 minutes from Trauma Center, transport to nearest affiliate trauma hospital.
- > 30 minutes from Trauma Center or affiliate trauma hospital, transport to nearest hospital.
 - > 45 minutes from Trauma Center or affiliate trauma hospital in a rural area where there is no comprehensive emergency department hospital available, transport to the nearest hospital.

* Adapted from Trauma Care System Guidelines, ACEP, 1992, and Resources for Optimal Care of the Injured Patient, ACS, 1993. It is expected that each Region will expand upon this minimal triage set based on individual assessments, resources, and outcomes.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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Section 515.APPENDIX F Template for In-House Triage for Trauma Centers

It is expected that each trauma center will expand upon the minimum triage set based on individual assessments, resources and outcomes. The criteria are consistent with the Minimum Trauma Field Triage Criteria for transport to a trauma center.

a) Patient Evaluation

- 1) Any EMS System transported patients who are classified under Category I in the Minimum Trauma Field Triage Criteria require rapid transport to a trauma center if less than 25 minutes from the trauma center; otherwise, follow Section 515.Appendix C. Mandatory field notification of a trauma surgeon will occur in cases of:

- A) Sustained hypotension (blood pressure less than or equal to 90 Hg systolic for an adult and less than or equal to 80 Hg for a pediatric patient on two consecutive measures five minutes apart); or

- B) Cavity penetration of the torso or neck.

- 2) Patients who are classified in the field or in any pre-hospital setting shall be evaluated by the ED's attending emergency physician or designee immediately upon arrival. (Section 515.2060(a))

- 3) Patients who are not classified as trauma prior to arrival shall be evaluated to assess whether they should be classified as a trauma patient within 10 minutes after arrival. (Section 515.2060(b))

- 4) Within the above 10 minute evaluation period, the patient must be determined to be Category I or Category II. The response periods for both categories are described below.

- 5) Patients may be upgraded at any time during ED treatment. The surgeon response time requirements begin at the time of upgrade.

- 6) Once the patient has been assigned a Category I or II status that patient cannot be downgraded until the patient is evaluated by the trauma surgeon or appropriate subspecialist.

b) Category I

The trauma center must activate its trauma team response (which includes a trauma surgeon, resident or other surgical specialty in

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lieu of the trauma surgeon) for patients who meet these criteria. Level II trauma centers require a 30-minute response from the time of identification of need. If a back-up surgeon is used, the 30-minute time for response is based on the trauma patient identification time, not the time of the contact to the back-up surgeon. Any patient can be made a Category I based on the ED physician's discretion.

Any patient meeting the definition of isolated injury requires consultation with the appropriate subspecialist within 60 minutes after trauma patient identification, except for neurosurgery and Level I OB/GYN, pediatric surgery and cardiovascular surgery. When neurosurgical intervention has been identified, the neurosurgeon must arrive and be available in a fully staffed operating room within 60 minutes after the identification of the need for operative intervention. In a Level I trauma center, the OB/GYN, pediatric surgery or cardiovascular surgical subspecialist must arrive within 30 minutes after notification of the subspecialist that his or her services are needed at the hospital. Where specialty services are provided by transfer agreement, a transfer to a specialty center shall commence within 30 minutes after the patient's arrival, and shall be completed within two hours. An isolated injury refers to transfer of energy to a single anatomic body region with no potential for multisystem involvement.

c) Category II

Any other patient who is admitted for traumatic injury requires notification/consultation with the trauma surgeon or subspecialist at the time the decision to admit is made. The patient will be seen by the trauma surgeon or appropriate surgical subspecialist within 12 hours after emergency department arrival.

Any patient meeting the definition for isolated injury requires a telephone consultation with the appropriate subspecialist (within 60 minutes Level II and 30 minutes Level I) of identified need by the emergency department physician except for neurosurgical injury which requires an on-site consultation within 60 minutes after notification of the neurosurgeon that his or her services are needed at the hospital. In a Level I trauma center, the surgical subspecialist for OB/GYN, pediatric and cardiovascular thoracic surgery must arrive within 30 minutes after notification that his or her services are needed at the hospital. When the need for neurosurgical intervention has been identified, the neurosurgeon must be available in a fully staffed operating room within 60 minutes after the identification of need for operative intervention. Where specialty services are provided by transfer agreement, a transfer to a specialty center shall commence within 30 minutes after the patient's arrival, and the transfer shall be completed within two hours. An isolated injury

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refers to the transfer of energy to a single anatomic body region with no potential for multisystem involvement.

Category I criteria include at minimum but are not limited to items in the Category I box, Minimum Trauma Field Triage Criteria (Section 515.Appendix C).

Category II criteria include at minimum but are not limited to items in the Category II box, Minimum Field Triage Criteria (Section 515.Appendix C).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Health Facilities Planning Procedural Rules

2) Code Citation: 77 Ill. Adm. Code 1130

3) Section Number: Proposed Action:

1130.110	Amendment
1130.120	Amendment
1130.130	Amendment
1130.140	Amendment
1130.210	Amendment
1130.220	Amendment
1130.310	Amendment
1130.410	Amendment
1130.510	Amendment
1130.520	Amendment
1130.540	Amendment
1130.541	New Section
1130.542	New Section
1130.560	Amendment
1130.570	Amendment
1130.610	Amendment
1130.620	Amendment
1130.640	Amendment
1130.650	Amendment
1130.660	Amendment
1130.670	Amendment
1130.680	Amendment
1130.710	Amendment
1130.720	Amendment
1130.730	Amendment
1130.740	Amendment
1130.750	Amendment
1130.Appendix A	Amendment

4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]

5) A Complete Description of the Subjects and Issues Involved: Changes to Part 1130 certificate of need procedural rules are proposed in the following areas: definitions, transactions subject to or exempt from review, the review and processing of applications for exemption or permit, and permit validity and reporting requirements. The proposed rules would change the definition of acquisition or change of ownership of a health care facility, create a definition for control of a health care facility, create a definition with respect to transactions undertaken by or on behalf of a health care facility, and add or clarify other definitions. Other changes clarify the requirements with respect to who is a necessary person to an application for permit or exemption, clarifies which

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transactions are subject to certificate of need review, establishes exemptions for certain transactions relating to merging two or more existing health care facilities and for facility participation in demonstration programs. In addition, changes are proposed with respect to completion and modification requirements as well as changes in processing of alterations to and obligations of projects. The proposed rules also will replace the emergency rules concerning change of ownership which became effective on September 2, 1997.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect? Emergency Rulemaking was initiated on Sections 1130.140, 1130.520, and 1130.560. These emergency amendments became effective on September 2, 1997 (for a maximum of 150 days) and were published at 21 Ill. Reg. 12671 on September 12, 1997.

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporation by reference? No

- 9) Are there any other proposed rulemakings pending on this Part? No

- 10) Statement of Statewide Policy Objectives: The purpose of the Illinois Health Facilities Planning Act (Planning Act) is to establish a procedure designed to contain health care costs by preventing unnecessary construction or modification of health care facilities. The proposed amendments and new Sections to Part 1130 will promote the statute's purpose of improving the "ability of the public to obtain necessary health services" and "establish an orderly and comprehensive health care delivery system which will guarantee the availability of quality health care to the general public" by assuring that transactions subject to the Act are processed, reviewed, and monitored in an effective manner.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the Illinois Register to:

Donald Jones
Health Facilities Planning Board
Illinois Department of Public Health
Division of Facilities Development
525 West Jefferson, Second Floor
Springfield, IL 62761
(217) 782-3516

All written comments received within 45 days after this issue of the Illinois Register will be considered.

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A public hearing will be held on Wednesday, January 7, 1998, at 1:30 p.m. at the Renaissance Hotel, 701 East Adams Street, Springfield, Illinois. The hearing will be for the sole purpose of gathering public comment on the proposed amendments. Persons interested in presenting testimony at this hearing are advised that the State Board will follow these procedures in the conduct of the hearing:

- 1) Each person presenting oral testimony is requested to provide to the State Board a written (preferably typed) copy of such testimony at the time the oral testimony is presented.

- 2) No person will be recognized to speak for a second time until all persons wishing to testify have done so. The State Board may limit the time the hearing is open and limit the time of individual testimony based upon the number of persons wishing to testify. All testimony shall conclude at the specific times except that an individual in the midst of presenting testimony shall be allowed to complete his/her testimony.

- 3) In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the State Board may impose such other rules of procedure, including the order of call of witnesses, as necessary.

These rules may have an impact of small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Donald Jones at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small business, small municipalities and not for profit corporations affected: Health care facilities that meet the definition of small businesses.

- B) Reporting, bookkeeping or other procedures required for compliance: None

- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the Proposed Amendments begin on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER II: HEALTH FACILITIES
PLANNING BOARD
SUBCHAPTER b: OTHER BOARD RULES

PART 1130

HEALTH FACILITIES PLANNING PROCEDURAL RULES

SUBPART A: AUTHORITY, PURPOSE AND DEFINITIONS

Section
1130.110 Statutory Authority/Applicability
1130.120 Public Hearings
1130.130 Purpose
1130.140 Definitions
1130.150 Incorporated Materials

SUBPART B: WHO IS SUBJECT TO THE HEALTH FACILITIES PLANNING ACT

Section
1130.210 Persons Subject to the Act
1130.220 Necessary Parties to the Application for Permit or Exemption

SUBPART C: TRANSACTIONS SUBJECT TO REVIEW

Section
1130.310 Transactions Subject to Review

SUBPART D: TRANSACTIONS WHICH ARE EXEMPT FROM REVIEW

Section
1130.410 Transactions Which Are Exempt from Review

SUBPART E: PROCEDURAL REQUIREMENTS FOR EXEMPTIONS

Section
1130.510 Requirements for Exemptions Involving the Acquisition of Major Medical Equipment
1130.520 Requirements for Exemptions Involving the Change in Ownership of a Health Care Facility
1130.530 Requirements for Exemptions Involving Health Maintenance Organizations (Repealed)
1130.540 Requirements for Exemptions Involving Involuntary Discontinuation
1130.541 Requirements for Exemptions for Mergers Into a Single Licensed Facility
1130.542 Requirements for Exemptions for Temporary Use of Beds for Demonstration Programs
1130.550 Agency Processing of an Application for Exemption

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1130.560 State Board Action
1130.570 Validity of an Exemption

SUBPART F: PROCEDURAL REQUIREMENTS FOR THE REVIEW AND PROCESSING OF APPLICATIONS FOR PERMIT

Section
1130.610 Duration of the Review Period and Time Frames
1130.620 Consultation, Classification and Completeness Review
1130.630 Agency Actions During the Review Period
1130.640 Extension of the Review Period Prior to Initial State Board Action
1130.650 Modification of an Application
1130.660 Approval of an Application
1130.670 Notice of Intent-to-Deny an Application
1130.680 Denial of an Application

SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

Section
1130.710 Validity of Permits
1130.720 Authorization to Obligate and Obligation
1130.730 Extension of the Obligation Period
1130.740 Renewal of a Permit
1130.750 Alteration of a Project for which a Permit Has Been Issued
1130.760 Semi-Annual Progress Reports
1130.770 Project Completion, Final Realized Costs and Cost Overruns
1130.780 Revocation of a Permit
1130.790 Penalties, Fines and Sanctions Mandated in the Illinois Health Facilities Planning Act for Non-compliance with the Act and the State Board's Rules

SUBPART H: DECLARATORY RULINGS

Section
1130.810 Declaratory Rulings

APPENDIX A Annual Inflation Adjustments to Review Thresholds

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Adopted at 14 Ill. Reg. 7183, effective May 1, 1990; emergency amendment at 15 Ill. Reg. 4787, effective March 18, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 9731, effective June 17, 1991; emergency amendments at 16 Ill. Reg. 13153, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 17 Ill. Reg. 4448, effective March 24, 1993; amended at 17 Ill. Reg. 5882, effective March 26, 1993; amended at 19 Ill. Reg. 2972, effective March 1, 1995; expedited

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correction at 21 Ill. Reg. 3753, effective March 1, 1995; recodified at 20 Ill. Reg. 2597; emergency amendment at 21 Ill. Reg. 12671, effective September 2, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. _____, effective _____.

SUBPART A: AUTHORITY, PURPOSE AND DEFINITIONS

Section 1130.110 Statutory Authority/Applicability

- a) This Part is promulgated by authority granted to the ~~Illinois Department of Public Health~~ ~~(Agency)~~ ~~and to the Illinois Health Facilities Planning Board (State Board)~~ under Public Act 78-1156, the Illinois Health Facilities Planning Act as amended (the Act) [20 ILCS 3960] ~~(Ill. Rev. Stat., ch. 111, pars. 1151 et seq.)~~.
- b) Upon the effective date of this Part, all applications in the review process and all projects for which permits have been issued but which have not been completed shall be subject to the provisions of this Part.

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

Section 1130.120 Public Hearings

Public hearings on this Part were held in accordance with the provisions of Section 12 of the Act. Copies of the public hearing records are available for inspection at the headquarters of the State Board at 525 535 West Jefferson Street, Springfield, Illinois 62761.

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

Section 1130.130 Purpose

- a) ~~The purpose of the Health Facilities Planning Act is to establish a procedure designed to reverse the trends of increasing costs of health care resulting from unnecessary construction of health care facilities. This program is established to improve the financial ability of the public to obtain necessary health services, and to establish an orderly and comprehensive health care delivery system which will guarantee the availability of quality health care~~ [20 ILCS 3960/2] ~~(Section 2 of the Act)~~. Decisions regarding proposed new health services and facilities shall be made for reasons having to do with the community health needs in the various parts of the state. The burden of proof on all issues pertaining to an application shall be on the applicant.

- b) The health facilities planning program shall be administered with the goal of containing capital investment and the objectives of:

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- 1) Promoting development of more effective methods of delivering health care;
- 2) Improving distribution of health care facilities and services and insuring access to needed health care services for the general public;
- 3) Controlling the increase of health care costs;
- 4) Promoting planning for health care services at the facility, regional and state levels;
- 5) Maximizing the use of existing health care facilities and services which represent the least costly and most appropriate levels of care; and
- 6) Minimizing the unnecessary duplication of health care facilities and services.

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

Section 1130.140 Definitions

Definitions pertaining to program components can be found in the "Act" and in 77 Ill. Adm. Code 1100 and 1110. Definitions which will assist in the understanding of this Part are presented below.

- a) "Acquisition or Change of Ownership" means a change in the person who has operational control of an existing health care facility or a change in the person who has ownership or control of a health care facility's physical plant and capital assets. Acquisition or change of ownership is indicated by, but not limited to, the following transactions:

- 1) a transfer of stock or assets resulting in a person obtaining majority interest (i.e. over 50%) in the person who is licensed or certified (if the facility is not subject to licensure), or in the person who owns or controls the health care facility's physical plant and capital assets; ~~entity--within--a--one--year period; or~~
- 2) the issuance of a license by the Agency to a person different from the current licensee; or
- 3) the issuance of a provider number to a different person by certification agencies which administer Titles XVIII and XIX of the Social Security Act; ~~or~~
a change in the membership or sponsorship of a not-for-profit corporation or a change of 50% or more of the voting members of a not-for-profit corporation's board of directors during any consecutive 12 month period which controls a health care

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facility's operations, license, certification or physical plant and capital assets; or

a change in the sponsorship or control of the person who is licensed, certified, or owns the physical plant and capital assets of a governmental health care facility; or

any other transaction which results in a person obtaining control of a health care facility's operations or physical plant and capital assets.

AGENCY NOTE: A permit or exemption is required prior to the acquisition or change of ownership of a health care facility and prior to any person entering into a binding or enforceable contract to acquire an existing health care facility.

b† "Alteration" means any revision or change to a project as detailed in the application that occurs after State Board issuance approval of the permit. Components which can be altered include size, number of beds, scope of services to be provided, an increase or decrease in cost, or a change in the or method of financing. The site of the proposed project or the person(s) who is (are) the permit holder(s) cannot be altered. Other alterations which substantially change the characteristics of a project may result in invalidating a permit or in revocation of a permit. Section 1130.750 specifies what types of alterations are permissible and the requirements for approval.

c† "Applicant" means a person(s) and any related person who applies for a permit or exemption to construct or modify a health care facility or to acquire major medical equipment.

"Authorization to Obligate" means a permit holder is authorized by the State Board or Agency to proceed with the project approved by the State Board, and that the project has been found to be in conformance with the provisions of Section 1130.720. All projects, except no cost projects for discontinuation, are required to obtain an authorization to obligate.

"By or on Behalf of a Health Care Facility" means:

any proposed or incurred capital expenditure, gift, donation, or transfer of capital assets which exceeds the capital expenditure minimum and which is undertaken by a health care facility or by a related person to a health care facility and which directly or indirectly benefits a health care facility in its operation by enhancing its ability to deliver services to its patients, or

the purchase or acquisition of equipment or service for

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diagnostic or therapeutic purposes or for facility administration or operation, which is proposed to be or has been undertaken or accomplished by a related person(s) and which directly or indirectly benefits a health care facility in its operation by enhancing its ability to deliver services to its patients.

d† "Capital" expenditure means an expenditure: made by or on behalf of a health care facility (as such a facility is defined in this Act); and which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance, or is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part; and which exceeds the capital expenditure minimum. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds the capital expenditure minimum. Donations of equipment or facilities to a health care facility Health-Care-Facility which if acquired directly by such facility would be subject to review under this Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review. [20 ILCS 3960/3]†Section-3-of-the-Act†

e† "Capital Expenditure Minimum" means the dollar amount or value which would require a permit for capital projects and major medical equipment. Capital expenditure minimums are annually adjusted to reflect the increase in construction costs due to inflation per Section 1130.310.

f† "Certified or Certification" means approval for a facility to receive reimbursement under Title XVIII and/or XIX of the Social Security Act (42 U.S.C.A 1395x).

g† "Completion or Project Completion" means that the project has been brought to a conclusion, and that the State Board has determined that the finished project is or is not in accordance with what the State Board authorized, and that a project completion date has been established by the State Board. For projects which have documented compliance with the provisions of the permit as authorized by the State Board, the date of project completion is and:

†† for projects with no cost that are limited to total discontinuation of a facility or of a category of service, the date the last patient is discharged or the date the permit for discontinuation is issued whichever comes later; or

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- 2† for projects with no cost that are limited to a substantial change in beds pursuant to Section 1100-220† in licensed long-term care facilities pursuant to 77-III-Adm. Code 1100-220†, the date the Agency issues a revised license; or
- 3† for projects with no cost that are limited to a substantial change in beds pursuant to 77-III-Adm. Code 1100-220† in licensed hospitals or in state-operated facilities, the date the Agency receives a revised physical plant survey or the date of permit issuance which ever is later; or
- 4† for projects limited to the establishment of a category of service, the date the first patient is treated or the date the Agency receives a report of final realized cost, whichever is later; or
- 5† for projects limited to the establishment of a health care facility, the date the health care facility is licensed or the date the Agency receives a report of final realized cost, whichever is later; or
- 6† for projects limited to the acquisition of major medical equipment, the date the Agency receives a report of final realized costs or the date the equipment is utilized to treat the first patient, whichever is later; or
- 7† for all other projects including modernization of existing facilities, the date the Agency receives a report of final realized costs.† or ‡ For projects not in accordance with what the State Board authorized which the State Board has found not in compliance with the provisions of the permit as authorized by the State Board, including projects with cost overruns, the date of project completion shall be established by the State Board determines the project is complete.

h† "Consolidation" means the combination of two or more existing health care facilities into a new health care facility terminating the existence of the existing or original facilities (A + B = C). Consolidation results in the establishment of a health care facility within the meaning of the Act and in the discontinuation of the existing facilities, resulting in termination of license for facilities subject to licensure or the loss of certification for facilities not subject to licensure. For example, consolidation is subject to review only when a new facility with a new license will be established due to the consolidation. In this case the A and B facilities which consolidate are reviewed for discontinuation and the new licensed facility C is reviewed for establishment. It is this discontinuation and establishment which creates the need for review.

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~~In example, consolidation becomes reviewable only when a new facility with a new license will be established due to the consolidation. In this case the A and B facilities which consolidate are reviewed for discontinuation and the new licensed facility C is reviewed for establishment. It is this discontinuation and establishment which creates the need for review.~~

"Control" means a person possesses any of the following discretionary and non-ministerial rights or powers:

the right or power to approve and to remove without cause a controlling portion of the governing body of another person; or

the right or power to require or approve the use of funds or assets of another person for any purpose; or

the right or power to approve, amend, or modify the health care facility's by-laws or other rules of governance. A person may control one or more other persons(s). For the purpose of this definition, "governing body" means, with respect to:

a corporation having stock, such corporation's board of directors and the owners, directly or indirectly, of more than 50% of the securities (as defined in Section 2(1) of the Securities Act of 1933, as amended) of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to elect a majority of the corporation's directors (both of which groups shall be considered a governing body);

a not for profit corporation not having stock, such corporation's members if the members have complete discretion to elect the corporation's directors, or the corporation's directors if the corporation's members do not have such discretion; and

any other entity, its governing board or body. For the purposes of this definition, all references to directors and members shall be deemed to include all persons or entities performing the function of directors or members however denominated. A controlling person or entity indirectly controls all persons or entities controlled, or owned directly or indirectly, by any person or entity controlled by such controlling person or entity.

†† "Construction or Modification" ~~modification~~ means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership of or by

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a health care facility, or the purchase or acquisition by or through a health care facility of equipment for diagnostic or therapeutic purposes or for facility administration or operation or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum. [20 ILCS 3960/3] ~~Section-3 of the Act~~

1) "Discontinuation" means to cease operation of an entire health care facility or category of service. Discontinuation includes a determination by the State Board that:

1) a category of service has not been utilized for its intended purpose for a period of twelve months or more; or

2) a category of service approved after January 1, 1992 is not operating at utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100, for that category of service, by the end of the second year of operation after project completion and on average for any two-year period thereafter (based upon data reported by the facility to the State Agency pursuant to Section 13 of the Act), and that need no longer exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service; or

3) an existing category of service is not operating at utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100, for that category of service, on average for any two-year period commencing on January 1, 1995 and thereafter (based upon data reported by the facility to the State Agency pursuant to Section 13 of the Act), and that need no longer exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service.

4) "Due Diligence" means to take such actions toward the completion of a project for which a permit has been granted with that diligence and foresight which persons of ordinary prudence and care commonly exercise under like circumstances. An accidental or unavoidable cause which cannot be avoided by the exercise of due diligence in the meaning of this rule is a cause which reasonable prudent and careful persons, under like circumstances, do not and would not ordinarily anticipate, and whose effects under similar circumstances they do not and would not ordinarily avoid.

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1) "Establish or Establishment" means the creation construction of a health care facility by new construction, by the licensure or conversion of unlicensed buildings, or the replacement of an existing facility on another site, or the consolidation of two or more existing facilities into a new facility, or the development, licensure, or certification of a category of service.

2) "Existing Health Care Facility" means any facility subject to the Act which:

1) has a license issued by the Agency and has provided services within the past 12 months, unless the failure to provide such service is the result of pending license revocation procedures, and has not surrendered or abandoned its license or had its license revoked or voided or otherwise deemed invalid by the Agency; or

2) is certified under Titles XVIII or XIX of the Social Security Act; or

3) is a facility operated by the State of Illinois.

AGENCY NOTE: Projects for which permits have been granted but which are not complete as defined in ~~pursuant to subsection (f)~~ of this Section shall not be considered existing facilities, but the approved number of beds or services shall be recorded in the Inventory of Health Care Facilities maintained by the Agency and shall be counted against any applicable need estimate.

"Fair Market Value" means the dollar value of a project or any component of a project that is accomplished by lease, donation, gifts or any other means that would have been required for purchase, construction, or acquisition.

3) "Final Decision or Final Administrative Decision or Final Determination" means:

1) the decision by the State Board to approve or deny an application for permit. Action taken by the State Board to deny an application for permit is subsequent to an administrative hearing or to the waiver of such hearing; or

2) the decision by the State Board on all matters other than the issuance of a permit; or-

3) The decision is final at the close of business of the State Board meeting at which the action is taken.

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o† "Final Realized Costs" means all costs that are normally capitalized under generally accepted accounting principles are those costs of construction, modernization or equipment that have been incurred to complete a project for which a permit was granted. These costs include all expenditures and the dollar or fair market value of any component of the project whether acquired through lease, donation or gift.

p† "Major Construction Project" means:

1† Projects for the construction of new buildings;

2† Additions to existing facilities; and

3† Modernization projects whose cost is in excess of \$1,000,000 or ten percent of the facility's operating revenue, whichever is less. [20 ILCS 3960/5] (Section 5 of the Act)

q† "Major medical equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of the capital expenditure minimum, except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act (42 U.S.C.A. 1395x) to meet the requirements of paragraphs (10) and (11) of Section 1861(S) of such Act. In determining whether medical equipment has a value in excess of the capital expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included. [20 ILCS 3960/3] (Section 3 of the Act)

r† "Merger" means the absorption of one or more existing health care facility into another existing health care facility. The result of the absorption is that only one facility survives (A + B = B). Merger results in the modification (e.g., expansion of beds or services) of the survivor facility and the discontinuation of the facility being absorbed.

s† "Modification of an Application or Modification" 1† Modification of an Application or Modification means any change to a proposed project during the review period (i.e., prior to final State Board action) which results in changing the proposed project's physical size or gross square feet, the site within a planning area, the operating entity when the operating entity is not the applicant, the number of proposed beds, the categories of service to be provided, the cost, the method of financing, or the configuration of space within the

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building, or the addition or deletion of one or more persons as co-applicants.

2† AGENCY NOTE: A change in the applicant or a change in site to outside the planning area originally identified in the application are not considered modifications and, if either occurs, the application is void.

t† "Notification of State Board Action" means the transmittal of State Board decisions to the applicant or permit holder. Notification shall be given to the applicant's or permit holder's designated contact person, legal representative or chief executive officer.

u† "Obligation" means receipt by the Executive Secretary, subsequent to the issuance of an authorization to obligate, of a notarized certification by an officer of the permit holder which attests to documents verifying one of the following:††

that the project has received an authorization to obligate; and is---to---be---accomplished---through---the---execution---of---binding enforceable contracts†† including lease agreements†† to expend an amount exceeding the State Board's review thresholds for capital expenditures or acquisition of major medical equipment or by an amount equal to or greater than 33 percent of the permit amount†† whichever is less†† and that the permit holder has demonstrated a financial commitment to fund the project†† financial institution commitment can be shown by a statement from a financial institution or other lender indicating that funding will be provided†† or 2†

one of the following:

that the project has no cost and has been completed; or is to be done internally or by permit holder and has been completed; or is authorized by the governing body through the release of funds to expend 33 percent or more of the permit amount or an amount exceeding the capital expenditure minimum†† whichever is less†† or 3†

that the permit holder has:

executed those binding enforceable contracts or lease agreements (previously reviewed by the Agency) in an amount that exceeds the capital expenditure or major medical equipment review threshold (as applicable) or which is equal to or greater than 33 percent of the permit amount, whichever is less; and project has no cost and has been completed in accordance with subsection (g) above.

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affirmed that the financial resources have been committed to fund the project; and

affirmed that the project's cost, scope, design, square footage, number of beds or stations, etc. (as applicable) are in accord with what the State Board has approved; or

that the project is to be done internally by permit holder and has been authorized by the governing body through the release of funds to expend 33 percent or more of the permit amount or an amount exceeding the capital expenditure minimum, whichever is less; and

that the financial resources have been committed to fund the project; and

that the project's cost, scope, design, square footage, number of beds or stations, etc. (as applicable) are in accord with what the State Board has approved.

AGENCY NOTE: Prior to signing principal contracts or to otherwise obligating the project, all permit holders, except those with permits for no cost discontinuation projects, are the--permit--holder--is required to obtain an authorization to obligate pursuant to Section 1130.720.

"Operational" means that a permit holder is providing the service(s) approved by the State Board and that for a new health care facility or for a new category of service, licensure or certification has been obtained and residents/patients are utilizing the facility or service.

v† "Project Commitment Date" means the date the permit holder executes binding enforceable contracts to expend an amount which exceeds the capital expenditure minimum or at least 33 percent of the permit amount, whichever is less. For projects not undertaken by contract, the project commitment date is the date the permit holder's governing body authorizes or releases funds to expend an amount which exceeds the capital expenditure minimum or at least 33 percent or more of the permit amount, whichever is less. If a project has no cost the project commitment date is the date of project completion.

w† "Proposal or Project" means any proposed construction or modification of a health care facility or any proposed acquisition of equipment to be undertaken by an applicant.

"Related Person" means any person that:

is at least 50 percent owned, directly or indirectly, by either

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the health care facility or a person owning, directly or indirectly, at least 50 percent of the health care facility; or

owns, directly or indirectly, at least 50 percent of the health care facility; or

is otherwise controlled or managed by one or more health care facilities or a person that controls or manages the health care facility; or

otherwise controls or manages the health care facility; or

is otherwise, directly or indirectly, under common management or control of one or more health care facilities.

*† "Review Period" means the time from the date an application for permit is deemed complete until the State Board renders its final decision.

y† "Site" means the physical location of a proposed project and is identified by address or legal property description.

z† "Substantially changes the bed count of a health care facility" means construction or modification, including acquisition of equipment, which changes the bed capacity of a health care facility by increasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical facility or site to another by more than 10 beds or more than 10% of total bed capacity as defined by the State Board, whichever is less, over a two year period. (Section 5 of the Act) Relocation of beds occurs whenever one or more beds inventoried for a service is moved from one location in a building to a location in another building within the licensed or certified premises of a health care facility. The two year period begins on the date when additional beds added to the facility inventory become operational. When a permit is granted which will result in a change in bed capacity, the applicant facility may not add any more beds in those services affected by the permit for two years from the date that such beds become operational without obtaining an additional permit from the State Board. The facility may add beds (as long as the number added does not exceed 10 beds or 10% of the total facility capacity, whichever is less, over the two year period) in the other services not affected by the permit. Each facility will be contacted annually to verify bed inventory. If there is found, through this verification process, an increase in the calculated bed capacity of the facility, the State Agency shall determine the date the two year period begins. The date shall be published in the next available compilation of the Inventory of Health Care Facility and Need Determinations by Planning Area.

AGENCY NOTE: The discontinuation (reduction) of beds requires notice

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to the State Agency. The effective date of the bed reduction can be no earlier than the date of the State Agency's receipt of the bed reduction notice. It should also be noted that all proposed capital expenditures (including those which do not substantially change the bed capacity) in excess of the capital expenditure minimum require a permit, regardless of the purpose or nature of the project or transaction. However, proposals for less than the capital expenditure minimum, including those with no capital expenditure, also require a permit if the project or transaction is for a substantial change in the facility's bed capacity.

ee† Substantially changes the scope or changes the functional operation of the facility" means:

- 1† establishing an additional category of service as defined in Part 1100.220;
- 2† discontinuation as defined in Section 1130.140(f);
- 3† a change of a material representation made by the applicant in the "Application for Permit" subsequent to receipt of a permit which is relied upon by the State Board in making its decision. Material representations are those which provide a factual basis for issuance of a permit and include:

- A† withdrawal or non-participation in the Medicare and/or Medicaid programs;
- B† charge information;
- E† requirements of variances pursuant to 77 Ill. Adm. Code 1110-530(b)7;---1110-630(b)7;---1110-730(d)7;---1110-1330(f)17; 1110-1430(e)7;---and 1110-1730(d)7;
- B† other representations made to the State Board as stipulated in the permit letter;
- 4† the addition of a surgical specialty not previously approved by the State Board for an ambulatory surgical treatment center (ASTC) which has not been classified as a multi-specialty ASTC by the State Board in accordance with the provisions of 77 Ill. Adm. Code 1110.1540; not previously approved; or

- 5† an increase of more than three dialysis stations or more than 10% of the facility's total number of dialysis stations, whichever is less, over a two-year period. The two-year period begins on the date the facility's additional stations are certified. When a permit is granted for additional stations or for the

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establishment of an additional facility/service, the facility may not add any more dialysis stations for two years from the date that such stations approved in the permit are certified without obtaining an additional permit.

AGENCY NOTE: Section 1130.310 details the review requirements (or grandfathering) for kidney dialysis treatment center projects which were undertaken prior to March 1, 1995.

the acquisition, construction, or leasing of space, buildings, or structures for the purpose of providing diagnostic and treatment outpatient services such as, but not limited to, radiology, laboratory, or various therapies on a site or location which is not within the licensed premises of the health care facility.

AGENCY NOTE: All proposed capital expenditures (including those which do not substantially change the scope) in excess of the capital expenditure minimum require a permit, regardless of the purpose or nature of the project or transaction. However, it should also be noted that proposals from the capital expenditure minimum or less including those with no capital expenditure, also require a permit if the project or transaction is for a substantial change in the facility's scope or functional operation.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART B: WHO IS SUBJECT TO THE HEALTH FACILITIES PLANNING ACT

Section 1130.210 Persons Subject to the Act

The following persons are subject to the Act:

- a) Hospitals licensed pursuant to the Hospital Licensing Act (1110-530(b)7;---1110-630(b)7;---1110-730(d)7;---1110-1330(f)17; Stat:19917-ch-111-1/27-par-142-et-seq) [210 ILCS 85];
- b) Ambulatory surgical treatment centers required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act (1110-Rev-Stat-19917-ch-111-1/27-pars-157-8-1-et-seq) [210 ILCS 5];
- c) Long-term care facilities licensed pursuant to the Nursing Home Care Act (1110-Rev-Stat-19917-ch-111-1/27-pars-4151-101-et-seq) [210 ILCS 45];
- d) Kidney disease treatment centers, including free standing hemodialysis units;
- e) Any of the above types of facilities operated by the State or any department or agency thereof; and
- f) Any person proposing to establish, construct or modify any of the above types of facilities or proposing to acquire major medical equipment.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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Section 1130.220 Necessary Parties to the Application for Permit or Exemption**a) Applicants for Permit**

- 1) If a project to construct or modify an existing health care facility is proposed solely by the person who holds that facility's license or certification, that person must be the applicant provided that the person is not controlled by a related person.
 - 2) If a project to construct or modify an existing health care facility is proposed in whole or in part by a person(s) other than the person who holds the facility's license or certification, that person(s) and the person who holds the facility's license or certification must be co-applicants. Examples of such projects include applications to establish categories of service using mobile equipment, applications to construct non-patient projects involving two or more health care facilities or non-health care facility entities, or applications developed by a network of facilities or other persons.
 - 3) If a project to establish a health care facility is proposed solely by the person who will be licensed by the Agency or certified (if the facility is not subject to licensure), that person must be the applicant, provided that the person is not controlled by a related person.
 - 4) If a project to establish a health care facility is proposed in whole or in part by a person(s) other than the person who will hold the license or be certified, that person(s) and the person who will hold the license or be certified must be co-applicants.
 - 5) In the case of major medical equipment not located in or not acquired on behalf of a health care facility, the person responsible for providing patient care with the equipment must be the applicant.
 - 6) Notwithstanding the provisions of subsections (a)(1) through (5), if a person who is establishing, constructing, or modifying a health care facility is controlled by a related person, then the related person must also be a co-applicant. Control and related person are defined in Section 1130.140.
- b) Applicants for Exemption**
- 1) In all cases involving an exemption for the acquisition of major medical equipment, the person entity who will be responsible for operation of the proposed equipment must be the applicant for exemption. Operational responsibility includes both equipment management and program operation (i.e., patient scheduling, quality control and staff supervision). If the person is controlled by a related person, then the related person must also be a co-applicant.
 - 2) In the case of a change of ownership exemption for an existing

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facility, the person who will be licensed by the Agency or certified (if the facility is not subject to licensure) must be the applicant for exemption. In the case of a stock transfer, the person who entity--which will obtain a majority interest in the licensed person entity must be the applicant. If the person who is to acquire ownership is controlled by a related person, then the related person must also be a co-applicant.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART C: TRANSACTIONS SUBJECT TO REVIEW

Section 1130.310 Transactions Subject to Review

- a) A permit shall be obtained prior to the establishment, construction or modification of a health care facility which:
 - 1) requires a total capital expenditure in excess of the capital expenditure minimum. In determining the total capital expenditure, all costs (including the fair market value of assets acquired by lease or other means), which under generally accepted accounting principles are not properly chargeable as expenses of operation and maintenance, must be included even if any of such costs are not capitalized for reimbursement or other purposes. All capital expenditure minimums (Section 1130.140) shall be annually adjusted to reflect the increase in construction costs due to inflation. On October first of each year, the minimums will be adjusted for inflation. The basis for such adjustment for major medical equipment shall be the latest annual inflation rate as reflected in the Producer's Price Index as calculated in the DRI/McGraw-Hill Health Care Cost Costs Review section on Special Machinery and Equipment (DRI/McGraw-Hill Health-Care-Costs-Data Resources, 1200 G #750-W Street, N.W., Suite 1000 300, Washington D.C. 20005 20096.). The basis for the adjustment to capital expenditures other than major medical equipment shall be the latest annual inflation rate as reflected in the medical construction component of the Means Cost Data (R.S. Means Company Inc., 100 Construction Plaza, P.O. Box 800, Kingston, MA 02364-0800). The revised minimums shall be published as an appendix to this Part; or
 - 2) substantially changes the scope or changes the functional operation of the facility by construction or modification--or--by acquisition--of-new-equipment-or-alteration-of-existing-equipment and as defined in Section 1130.140; or
 - 3) results in the establishment of a health care facility; or
 - 4) changes the bed capacity of a health care facility by increasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical

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facility or site to another by more than ten beds or more than ten percent of total bed capacity as defined by the State Board, whichever is less, over a two year period (pursuant to Section 1130.140 77-III-Adm.-Code-1100-220); or

5) involves a change of ownership as defined in Section 1130.140 or other transaction which has not ~~unless an exemption has been granted an exemption in accordance with the provisions of Subpart E; or Section-1130-520:~~

6) results in the discontinuation of an entire health care facility or category of services unless an exemption has been granted in accordance with the provisions of Subpart E.

b) A permit must be obtained prior to the acquisition of major medical equipment unless an exemption has been granted in accordance with the provisions of Section 1130.510.

c) In determining the elements of a transaction or a project subject to review, the following factors apply:

- 1) Components of construction or modification which are interdependent or related must be grouped into one permit application. Interdependence occurs when components of construction or modification are architecturally and/or programmatically interrelated to the extent that undertaking one or more of the components compels the other components to be undertaken. In addition when components of construction or modification are to be undertaken by means of single construction contract, those components must be grouped into an application for permit. Related components are those undertakings that have been approved by a health care facility's board of directors to be obligated in two consecutive fiscal years and which involve facility expansion or modernization. These components must be grouped into an application for permit. Examples of related components include, but are not limited to, modernization of several ancillary departments, phased renovation of nursing units, construction of several free-standing outpatient buildings, or acquisition and renovation of existing buildings. Any facility expansion or modernization components to be undertaken by a related person must also be included in an application for permit if these undertakings are to be obligated in two consecutive fiscal years. Projects involving acquisition of equipment which are linked with construction for the provision of a service cannot be segmented. A health service linkage exists when all components must be present for a service to be operational, or when financing is obtained at one time for a series of related components. Computer software, for example, cannot be separated from the equipment needed to run the program.
- 2) No health care facility or other person required to obtain a permit shall split what should properly be considered a single capital expenditure into discrete components undertaken during a two consecutive fiscal year period to evade the capital

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expenditure review threshold.

3) No health care facility or other person required to obtain a permit shall separate portions of a single project into components, including, but not limited to, site, facility, and equipment, to evade the capital expenditure review threshold or other requirements of the Act or the rules promulgated thereunder.

d) Examples of projects which constitute construction or modification of a health care facility and require a permit include:

- 1) Projects located within a licensed or certified health care facility;
- 2) Projects which result in a health care facility:
 - A) Billing for services provided by the proposed project,
 - B) Capitalizing any portion of the proposed project,
 - C) Receiving reimbursement for services provided by the proposed project, or
 - D) Receiving recognition as the provider of the proposed service by third party payors;
- 3) Projects which are staffed or operated by the health care facility;
- 4) Projects which are otherwise of, by, through or on behalf of a health care facility;
- 5) Projects which provide a category of service as defined in 77 Ill. Adm. Code 1100 that are offered or made available on a regular basis to inpatients or outpatients of a health care facility.

e) Existing kidney disease treatment centers (ESRD facilities) that undertook projects to add additional ESRD stations prior to March 1, 1995 are not required to obtain a permit for the addition of these stations provided that documentation has been submitted to the State Board that verifies that the project had been committed prior to March 1, 1995. Project commitment means that the facility had executed a binding lease or contract to acquire additional space for the project and that financing of the project has been secured and that an application for certification of the additional stations was submitted to the Agency prior to January 1, 1995. ~~The discontinuation of an entire health care facility or category of service requires a permit unless an exemption has been granted in accordance with the provisions of Section-1130-540.~~

f) Notwithstanding the provisions of this Section, the State Board shall not require a permit (grandfather) for any construction or modification projects that prior to the effective date of this rule were not subject to review and that were completed, under construction, or otherwise obligated, provided that notice is submitted to the State Board and received no later than 90 days from the effective date of this rule. Such notice must contain a description of the project, project costs, source of funding and the actual or anticipated date of completion, and shall be notarized and

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attested to by an officer of the entity or health care facility that has undertaken the construction, acquisition or modification. Notice received subsequent to the 90 day period or failure to provide notice of such construction or modification projects shall subject the person or entity to the penalties and sanctions provided by the Act.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART D: TRANSACTIONS WHICH ARE EXEMPT FROM REVIEW

Section 1130.410 Transactions Which Are Exempt from Review

The following proposed transactions are not subject to review if an exemption is granted by the State Board:

- a) the acquisition of major medical equipment which will not be owned by, operated in behalf of, or located in a health care facility or be used to provide services to an inpatient of a health care facility.
- b) the change of ownership of an existing health care facility.
- c) the discontinuation of an existing health care facility or of a category of service when that discontinuation is the result of:
 - 1) revocation of or denial of license renewal by a State or local regulatory agency;
 - 2) for facilities not subject to licensure, the loss of certification;
 - 3) discontinuation action taken by the State Board;
 - 4) the voluntary surrender of a suspended license.
- d) the merger of two or more existing health care facilities into a single licensed health care facility, provided all of the following are met:
 - 1) the existing facilities are located on the same site or on sites adjacent to one another;
 - 2) the licensed person for the existing facilities is the same;
 - 3) the merger is for the sole purpose of operating the existing facilities under a single license;
 - 4) the merger does not involve any cost, any change in scope of services provided, or any change in bed capacity.
- e) the temporary use of beds within existing health care facilities for purposes other than categories of service as defined in 77 Ill. Adm. Code 1100, provided the following are met:
 - 1) the beds will be utilized to provide services as part of a demonstration program authorized by State or federal law such as, but not limited to, the supportive living facility demonstration project established under Section 5-5.01 of the Illinois Public Aid Code; and
 - 2) the beds will continue to be inventoried according to their presently approved use; and
 - 3) the temporary use of such beds shall cease upon withdrawal from

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- 4) or completion of the demonstration program; and that if such beds are to be permanently used for purposes other than those inventoried, a permit will be obtained from the State Board; and
- 5) that the temporary use of such beds will not be for demonstration models established pursuant to the Alternative Health Care Delivery Act [210 ILCS 3].

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART E: PROCEDURAL REQUIREMENTS FOR EXEMPTIONS

Section 1130.510 Requirements for Exemptions Involving the Acquisition of Major Medical Equipment

- a) Submission of Application for Exemption

Prior to any person acquiring major medical equipment which will not be owned by or located in a health care facility, the person must submit an application for exemption to the State Board, submit the required application processing fee pursuant to 77 Ill. Adm. Code 1190, and receive approval from the State Board.
- b) Application for Exemption Information

The application for exemption is subject to approval under Section 1130.560 and shall include the following information:

 - 1) The name and address of the applicant and co-applicant proposing to acquire the equipment (see Section 1130.220(b));
 - 2) Name and address of any person related to the applicant or co-applicant;
 - 3) Identification of the equipment to be acquired including model number, manufacturer and equipment specifications;
 - 4) The address of the premises where the equipment will be installed or used and a description of the premises which includes a gross square footage space allocation for the functions contained therein, such as, but not limited to, diagnostic or treatment areas, administrative space, doctors offices, waiting room, etc., and whether there is any common space shared or utilized by persons other than the applicant;
 - 5) Copies of any existing or proposed lease or purchase agreements or a proof of ownership regarding the premises where the equipment will be installed;
 - 6) Name and address of the person who owns the premises and whether that person is related to a health care facility or to the applicant;
 - 7) A signed certification that the equipment will not be used to provide services to inpatients of any health care facility;
 - 8) A signed certification that use of the proposed equipment will not result in the inpatient admission of patients to a health

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care facility following outpatient treatment except in emergency conditions;

97) A description of each component of an existing or proposed quality assurance plan for the proposed equipment addressing the following:

- A) how regular objective evaluation of all audits and medical care will be performed;
- B) how patient interviews and complaint evaluation will be performed;
- C) infection control measures;
- D) incident reporting;
- E) allied health professional credentialing;
- F) evaluation of external surveys affecting quality of care;
- G) safety committee concerns;
- H) problem resolution; and
- I) confidentiality concerns.

10) The cost or fair market value of the equipment plus all capital costs associated with the acquisition, installation, or operation of the equipment, including the construction costs or fair market value of the premises where the equipment will be installed.

c) AGENCY NOTE: a permit is required for the acquisition of major medical equipment which will be owned by, located in, or utilized to serve inpatients of a health care facility. Equipment acquired by exemption cannot be used to treat patients who are directly admitted into an inpatient unit of a health care facility except in the case of a medical emergency which threatens the life of the patient. A physician licensed to practice medicine in all of its branches must verify that such inpatient admission was caused by a medical emergency.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1130.520 Requirements for Exemptions Involving the Change in Ownership of a Health Care Facility

- a) Submission of Application for Exemption
Prior to any person acquiring or entering into a contract to acquire an existing health care facility, the person must submit an application for exemption to the State Board, submit the required application processing fee and receive approval from the State Board.
- b) Application for Exemption Information
The application for exemption shall be approved pursuant to Section 1130.560 when the following information is submitted:
 - 1) the name and address of the person proposing to acquire the facility;
 - 2) the name and location of the existing health care facility to be acquired;

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- 3) a signed certification that the categories of service and number of beds as reflected in the Inventory of Health Care Facilities maintained by the Agency will not substantially change (per definition in Section 1130.140);
- 4) documents which detail conditions and terms of any lease or purchase arrangement;
- 5) financial information, the latest audited financial statements of the applicant and a statement by the applicant specifying the source of funds which will be used to acquire the facility;
- 6) the anticipated acquisition price and the fair market value of the facility being acquired (determination of fair market value is stipulated by Section 1190.40(b));
- 7) proof of publication of the required legal notice of the change of ownership (as required by Section 1130.520(c));
- 8) a statement acknowledging that the change of ownership will void any permits for projects which have not been completed; and
- 9) documentation from the Illinois Secretary of State that the legal entity that is the exemption applicant is registered to conduct business in Illinois and is in good standing;
- 10) certification that the acquisition or purchase agreement has not yet been entered into or executed;
- 11) certification that any projects for which permits have been issued have been completed or will be completed or altered prior to the effective date of the change of ownership; and
- 12) a certified copy of the transcript of the hearing and copies of all exhibits, documents and other written materials presented at the hearing if the change of ownership is for a hospital.

c) Legal Notice Requirements

Any person requesting an exemption for a change of ownership must publish a legal notice in a newspaper of general circulation to the general public in the community in which the facility is located. This legal notice must provide the following:

- 1) the name and address of the facility for which the exemption is sought;
- 2) the name and address of the applicant entity requesting the exemption;
- 3) the nature of the transaction (e.g., the purchase, lease, or transfer of stock of the licensed entity);
- 4) when the entity which will be assuming ownership of the facility is a wholly owned subsidiary of another corporation, the name and address of the parent firm;
- 5) a statement that all categories of service and beds currently provided will be maintained; and
- 6) if the change of ownership is for a hospital, an announcement of a public hearing containing the information requirements of this Section; and
- 7) a name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed

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transaction.

AGENCY NOTE: Professional and trade association publications that are intended to serve a defined population will not be considered a newspaper of general circulation to the general public.

- d) Public Hearing Requirements for Hospital Changes of Ownership ~~the Chairman--acting--on--behalf--of--the--State--Board--shall--review applications--for--exemption--for--a--change--of--ownership--submitted pursuant--to--this--Section--and--shall--approve--such--applications--if--the requirements--of--subsections--(b)--and--(c)--of--this--Section--are--met--~~

Any person requesting an exemption for a change of ownership of a hospital must conduct a public hearing in the community in which the hospital is located. The hearing shall be held in a place of reasonable size and accessibility and a full and complete written transcript of the proceedings shall be made. The applicant shall include in the legal notice required in this Section the following information:

- 1) a statement as to the anticipated benefits of the proposed change in ownership to the community;
- 2) the anticipated or potential cost savings, if any, that will result for the community and the facility as a result of the change in ownership;
- 3) a description of the mechanism that will be utilized to assure quality control;
- 4) a description of the applicant's organizational structure to include a listing of controlling or subsidiary persons;
- 5) a description of the selection process that the acquiring entity will utilize in selecting the hospital's board of directors;
- 6) the location, time, and date of the hearing, which must be no later than 10 days nor more than 30 days from the date of publication of the legal notice; and
- 7) a statement that the hearing is an open public meeting at which time an opportunity will be afforded to all persons wishing to present written or oral comments.

- e) A permit or exemption cannot be transferred. In the event of an acquisition of a health care facility prior to the completion of an approved project, it is the responsibility of the permit holder to seek State Board approval to alter the permit to reflect only that construction or modification which will be completed at the time ownership of the facility transfers to another person. Failure to obtain an alteration approval will result in the totality of the permit being considered abandoned. Any person requesting an exemption for a change of ownership of a health care facility for which an outstanding permit exists must in the case where a permit has been altered to avoid abandonment, submit documentation in accordance with the provisions of Section 1130.750 to detail as to the scope and costs associated with completing the project as originally proposed. The Agency shall advise the applicant for exemption if a permit is required under Section 1130.310. A permit is required if the

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remainder of the project meets the review conditions specified in Section 1130.310.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1130.540 Requirements for Exemptions Involving Involuntary Discontinuation

Facilities which have discontinued in accordance with the provisions of Subpart D are not involuntarily discontinued, in whole or in part, as the result of license revocation or loss of certification are exempt from review upon receipt of evidence of such discontinuation by the State Board and shall not be required to submit an application for exemption or fee. The State Board shall take action to confirm the discontinuation and determine the date of discontinuation and adjust the Inventory of Health Care Facilities accordingly.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1130.541 Requirements for Exemptions for Mergers Into a Single Licensed Facility

A person proposing to merge two or more existing health care facilities into a single licensed health care facility must submit an application for exemption to the State Board, submit the required application processing fee pursuant to 77 Ill. Adm. Code 1190, and receive approval from the State Board.

The application for exemption shall consist of a written notice, notarized and attested to by an officer of the person who is the applicant, which contains the following:

- a) the name and address of the applicant proposing the merger;
- b) documentation that the requirements of Section 1130.410 pertaining to merger will be met;
- c) proof of publication of a legal notice in a newspaper of general circulation in the community in which the facilities are located. The notice shall provide the name and address of the applicant and the facilities to be merged, a description of the transaction addressing the applicable requirements of Section 1130.410, and the name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed transaction; and
- d) certification that the merger has not yet been entered into or executed.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 1130.542 Requirements for Exemptions for Temporary Use of Beds for Demonstration Programs

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A person proposing the temporary use of existing beds for purposes other than categories of service currently approved must submit an application for exemption to the State Board, submit the required application processing fee pursuant to 77 Ill. Adm. Code 1190, and receive approval from the State Board. The application for exemption shall consist of a written notice, notarized and attested to by an officer of the person who is the applicant, which contains the following:

- a) certification that the applicant will adhere to and comply with the applicable provisions of Section 1130.410; and
- b) proof of publication of a legal notice in a newspaper of general circulation in the community in which the facility is located. The notice shall provide the name and address of the applicant and of the facility that proposes to participate in the demonstration program, a description of the demonstration program, the number of beds proposed to participate in the demonstration program, and the name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed transaction.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 1130.560 State Board Action

- a) The approval of an application for exemption by the State Board requires seven affirmative votes.
- b) The Chairman, acting on behalf of the State Board, shall review applications for exemption for a change of ownership submitted pursuant to this Section, and may refer applications to the State Board for action or approve such applications if the applicable requirements of this Subpart are met.
- c) The Chairman, acting on behalf of the State Board, shall review applications for exemption for merger submitted pursuant to this Section, and may refer such applications to the State Board or approve such applications if the applicable requirements of this Subpart are met.
- d) The Chairman, acting on behalf of the State Board, shall review applications for exemption for temporary use of beds for demonstration programs submitted pursuant to this Section, and may refer such applications to the State Board or approve such applications if the requirements of this Subpart are met.
- e) The State Board shall evaluate the application for exemption and either issue an exemption or advise the applicant in writing that the application is denied and is not in compliance with exemption requirements ~~explain the reasons for the denial~~. The State Board shall approve all applications for exemption if the applicable conditions of this Subpart ~~Section 1130.510 or Section 1130.520 are~~ applicable are met. Exemptions will not be issued for projects which have failed to meet the applicable requirements of this Subpart

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~~Section 1130.510 or Section 1130.520 as applicable.~~ An exemption for a change of ownership shall not be granted for a project to establish a health care facility which has received a permit but which has not been completed.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1130.570 Validity of an Exemption

- a) An exemption ~~for a change of ownership or for acquisition of major medical equipment~~ shall be valid for 12 months from the date of exemption issuance. An exemption transaction for which the exemption was issued must be completed within this 12-month period. The exemption holder must notify the State Agency in writing before or no later than prior to the expiration date of the exemption and provide as follows:

- 1) for change of ownership, ~~notification to the State Agency specifying~~ documentation of the effective date of the ownership change as evidenced by the issuance of a license or certification or documentation of the effective date of a majority change in voting membership or sponsorship of a not-for-profit corporation, or documentation of the effective date of a stock transfer, or whichever is applicable;
- 2) for mergers, documentation of the effective date of the merger as evidenced by the issuance of a new license ~~for stock transfer~~ ~~documentation showing the effective date of the stock transfer;~~
- 3) for the acquisition of major medical equipment, documentation showing obligation of the transaction as defined in Section 1130.140;
- 4) for temporary use of beds for demonstration programs, documentation of the effective date that the beds were approved to participate in the demonstration program.

- b) AGENCY NOTE: Failure to provide the required notification shall subject the exemption holder to the sanctions provided by the Act. An exemption for a change of ownership of a health care facility shall be invalid if the health care facility ceases to be an existing health care facility as defined in Section 1130.140.

- c) Failure to comply with any conditions and/or certifications required for an exemption shall constitute an unauthorized modification to the exemption and shall subject the person to the penalties provided by the Act.

- d) Any person failing to obtain an exemption or permit when required shall be subject to the sanctions provided by the Act.

- e) An exemption is not transferable or assignable and cannot be bought or sold on its own or as part of any other transaction.

AGENCY NOTE: See Section 1130.520 regarding changes of ownership for

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facilities that have outstanding permits.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART F: PROCEDURAL REQUIREMENTS FOR THE REVIEW AND PROCESSING OF APPLICATIONS FOR PERMIT

Section 1130.610 Duration of the Review Period and Time Frames

It is the intent of the State Board that all applications for permit are reviewed and acted upon within the shortest practicable time.

- a) Emergency Applications
- Emergency applications will be reviewed and acted upon within three days. Initial application may be made orally or in writing or by electronic means to the Agency. The Agency, upon receiving the concurrence of the Chairman (or in the absence of the Chairman the Vice-Chairman) that the situation is emergent in nature in accordance with the provisions of 77 Ill. Adm. Code 110.40, is authorized to give oral approval. Any such communications shall be followed by a written application and written approval. *This procedure is exempt from the public hearing requirements of the Act* (Section 12 of the Act). The written application must identify the applicant and must summarize the nature of the problem the emergency project will correct and the anticipated cost of the project.

- b) Substantive and Non-substantive Applications
- All applications other than emergency applications shall be acted upon by the State Board between 60 days and 120 days from the date the application is declared complete by the Agency, unless the review period is extended by the applicant. All non-substantive applications and any applications involving the addition of beds shall be acted upon by the State Board at the State Board meeting following 60 days from the date the application is declared complete, unless the review period is extended by the applicant.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1130.620 Consultation, Classification and Completeness Review

- a) Consultation
- The application must be completed in accordance with the requirements of this Part which are applicable to the individual project. An applicant may request consultation with the Agency regarding completion of the application and the applicability of the requirements of this Part.
- b) Classification of an Application
- 1) An application for permit shall be classified as:

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- A) Substantive; or
- B) Non-Substantive; or
- C) Emergency.
- 2) Definitions of each classification are set forth in 77 Ill. Adm. Code 1100.220.

c) Completeness Review

- 1) Upon receipt of an application for permit, the Agency shall determine whether the application is complete or incomplete. An application for any project other than one involving the addition of beds shall be deemed complete within ten days after of receipt if all of the following have been met:
- A) all review criteria applicable to the individual project (77 Ill. Adm. Code 1110 and 1120) have been addressed;
- B) the required fee (as outlined in 77 Ill. Adm. Code 1190, Permit Application Fees) has been submitted;
- C) six copies of the application including one copy of the application containing original signatures have been submitted;
- D) all semi-annual progress reports on previously approved projects have been submitted;
- E) all required information concerning completion of previously approved projects has been submitted; and
- F) when the project proposed contains major medical equipment, the cost of the equipment to be acquired has been provided;
- G) all persons who are applicants have been identified and have submitted a certificate of good standing or evidence that the persons are authorized to conduct business in Illinois; and
- H) all questionnaires for information or data, such as the Annual Hospital or Long-term Care Questionnaire or Cancer Registry, required by the Agency's Office of Epidemiology and Health Systems Development, have been submitted or are not delinquent.
- 2) An application shall be incomplete if any of the elements described in subsection (c)(1) above are not present or if additional information or documentation is required to clarify a response. Failure to address an applicable criterion or to respond that an applicable criterion does not apply to that proposed project shall be a basis for deeming the application incomplete.
- 3) An application for a project which involves the addition of beds shall be deemed complete on the day of receipt if subsections (B)(7)-(F) and (H) of subsection (c)(1) above are submitted and if received no later than 8:30 a.m. on that day. Applications received after 8:30 a.m. shall be deemed as being received the following business day.
- 4) The Agency shall notify the applicant in writing, within ten working days, of its decision and in the case of an incomplete

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application, the reasons therefor.

- 5) If the application is deemed complete, the date of completion shall initiate the review period. If the application is deemed incomplete, the applicant shall be allowed ninety days from the date of receipt of the notification to provide all necessary information to complete the application. Upon receipt of all additional information requested, the Agency shall again review the application for completeness and shall notify the applicant of its decision within ten working days. If the Agency finds that the application remains incomplete at the end of the allotted response period, the application shall be declared null and void, and all fees paid forfeited.

AGENCY NOTE: It is the responsibility of the applicant to assure that the Agency is in receipt of the additional information within the prescribed time frame.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1130.640 Extension of the Review Period Prior to Initial State Board Action

- a) Requested and Supplemental Information

1) The Agency may request information or data during the review period. Information furnished at the request of the Agency shall not constitute supplemental information. The Agency may extend the review period until the next scheduled State Board meeting to review requested information.

2) Prior to initial State Board action, the applicant may provide supplemental information or data in support of the project only if such information is for a modification of the application. ~~An applicant may submit supplemental information only once and only prior to initial State Board action.~~ The Agency shall review the supplemental material and the modification within 60 days after of receipt and extend the review period if necessary and present its findings to the State Board for action at its next scheduled meeting.

3) Any ~~Subsequent~~ submissions of additional or other ~~supplemental~~ information by the applicant prior to initial State Board action will not be considered in the review of the project and will be returned to the applicant and will not be included in the project file.

4) Written comments from persons ~~parties~~ other than the applicant regarding a proposed project shall not constitute supplemental information. The applicant shall be provided a copy of any written comments received that are in opposition to the proposed project and shall be requested by the Agency to respond to such comments.

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- b) Modification

The review period may be extended up to 60 days by the Agency if the applicant modifies the application prior to initial review by the State Board.

- c) Deferral

The applicant may defer one time the initial consideration of a project by the State Board. A deferral extends from the State Board meeting at which the project has been scheduled to the next scheduled State Board meeting. A request for deferral may be made in writing prior to the scheduled State Board meeting or verbally at the State Board meeting.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1130.650 Modification of an Application

a) Modifications (as defined in Section 1130.140) shall be classified as Type A or Type B. Type A modifications shall be subject to the public hearing requirements of 77 Ill. Adm. Code 1200. If requested, a hearing would occur within the time allocated for Agency review. Type A modifications consist of any of the following:

1) An increase in the number of beds proposed in the project.

2) A change in the site of the project to a new location within the planning area.

3) An increase in the cost of the project exceeding ten percent of the original estimated project cost.

4) A change in the square footage of the project if such change results in an increase in the exterior dimensions of the project.

5) An increase in the categories of service to be provided.

6) The addition of one or more co-applicants to the application.

b) All other modifications, including those made by an applicant in conformance with and limited to the comments, recommendations or objections of the State Board, are Type B modifications and are not subject to public hearing.

c) An applicant can modify a project only twice during the review period provided, however, notwithstanding anything contained herein to the contrary, an applicant may modify a project at any time if such modification is in conformance with and limited to the comments, recommendations or objections of the State Board.

d) If an applicant modifies an application that is not a modification made in conformance with and limited to the comments, recommendations or objections of the State Board, the Agency shall have up to 60 days to review the modification and any supplemental information submitted pursuant to the applicable review criteria, hold a public hearing if requested, and submit its findings to the State Board at the next scheduled meeting.

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AGENCY NOTE: A change in any person who is the applicant or a change in site to a location outside the planning area originally identified in the application are not considered modifications, and if either occurs, the application shall be deemed void. (See also Section 1130.140+§††2†.)

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1130.660 Approval of an Application

The approval of an application and issuance of a permit by the State Board requires eight seven affirmative votes. The State Board shall consider the application and any supplemental information or modification submitted by the applicant, the Agency report(s), the public hearing testimony, if any, and other information coming before it in making its determination whether to approve the project. The applications are reviewed to determine compliance with review criteria enumerated in 77 Ill. Adm. Code 1110 and 1120 ~~7-1239-0-1246~~. The failure of a project to meet one or more review criteria, as set forth in 77 Ill. Adm. Code 1110 and 1120~~7-1239-0-1246~~ shall not prohibit the issuance of a permit. A permit is effective on the date of State Board authorization.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1130.670 Notice of Intent-to-Deny an Application

a) Issuance of Notice of Intent-to-Deny
If an application for permit fails to receive eight seven affirmative votes upon the initial State Board consideration, the applicant shall be issued a Notice of Intent-to-Deny the application for permit. The Notice of Intent-to-Deny shall be sent to the applicant by certified mail and shall afford the applicant an opportunity to appear before the State Board and an opportunity to submit additional information in support of the project.

b) Applicant's Response
The applicant shall notify the State Board in writing and within ten working days of receipt of the Notice of Intent-to-Deny, whether it intends to:

- 1) appear before the State Board; and/or
- 2) submit additional information.
- 3) AGENCY NOTE: It is the responsibility of the applicant to assure that the State Board is in receipt of the response within the ten day prescribed time frame.
- c) Action Following Notice of Intent-to-Deny
 - 1) If the applicant waives the right to appear before the State Board or if a written response is not received within ten working

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days of receipt of the notice of opportunity to appear, then the application shall be considered withdrawn.

2) If the applicant indicates that no additional information will be submitted, the State Board shall take action on the application at its next meeting.

3) If the applicant indicates that additional documentation shall be submitted, the applicant shall be afforded a period of 60 days from the date of the State Board's decision of Notice of Intent-to-Deny to submit such material. No material will be accepted by the Agency after the 60 day period expires. The Agency shall be allowed up to 60 days following the receipt of all material to review the material and issue a supplemental report. The Agency may request additional information or data during the review of the information submitted by the applicant. The Agency may extend the 60 day review period by no more than 30 days to review the requested information. The project shall be considered at the next regularly scheduled State Board meeting following completion of the Agency review.

4) Written comments submitted to the Agency from persons other than the applicant regarding a proposed project that has received an intent-to-deny shall not be included in the project file. This provision does not apply to public hearing testimony or comments that are received pursuant to a Type A modification.

d) Deferrals

A project which has received a Notice of Intent-to-Deny and has been scheduled for State Board consideration can be deferred only by the applicant and only until the next scheduled State Board meeting.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1130.680 Denial of an Application

a) If an application for permit fails to receive eight seven affirmative votes upon the second State Board consideration, the applicant shall be issued a denial of the application for permit.

b) If the State Board denies an application for permit, the decision and notice of opportunity for administrative hearing (as set forth in 77 Ill. Adm. Code 1180) shall be transmitted to the applicant by certified mail.

c) At the conclusion of such administrative hearing, or upon default of the applicant, the State Board shall make its final administrative decision, specifying its findings of fact and conclusions of law. The Executive Secretary shall transmit the decision to the applicant by certified mail.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

Section 1130.710 Validity of Permits

A permit is effective on the date of State Board authorization.

- a) A permit shall be valid until such time as the project has been completed, provided that obligation of the project occurs within 12 months following issuance of the permit except for "major construction projects" and Master Construction projects, in which case obligation must occur within 18 months unless the obligation period is extended by the State Board (as defined in Section 1130.730); and the project commences and proceeds to completion with due diligence (as defined in Section 1130.140). The obligation period shall be extended for any project for which issuance of a permit has been contested and is in administrative review. The obligation period will be extended by the length of time equal to the number of days from the date a summons was received until the date of final disposition of the suit. Projects, other than Master-Construction projects approved pursuant to a master design permit, under \$25 million must be completed within two years from the project commitment date; projects of \$25 million or more must be completed within two years from the project commitment date or by the completion date specified in the application or five years from the project commitment date, whichever is earlier. Permits for Master-Construction projects approved pursuant to a master design permit must be completed within the timetable for completion specified in the "Application for Permit." All permits for projects which are not completed in the timeframes specified shall expire for lack of due diligence, unless renewed by the State Board (as defined in Section 1130.740).

- b) A permit is valid only for the defined construction or modification, equipment, site, amount and person(s) named in the application for such permit and shall not be transferable or assignable. A transfer or assignment of a permit includes a change in the person who is the permit holder; a change in the membership or sponsorship of a not-for-profit corporation which is the permit holder; or the transfer, assignment, or other disposition of ten percent or more of the stock or voting rights thereunder of a for-profit corporation which is the permit holder.

- c) A permit shall not be bought, sold, nor transferred either on its own or as part of a transaction for a change of ownership of a health care facility or for the acquisition of major medical equipment. When a facility with a valid permit is purchased or otherwise acquired, such permit may not be transferred to allow the acquiring entity to complete the project for which the permit was granted. For projects not yet complete, an alteration must be obtained by the permit holder in accordance with the provisions of Section 1130.750. If a change of ownership occurs involving a valid permit which has not been completed the permit shall be considered abandoned by the permit holder.

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(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1130.720 Authorization to Obligate and Obligation

- a) Projects for construction, establishment or modification must be obligated (pursuant to Section 1130.140) prior to the expiration date of the permit.
- b) Prior to obligation (for all projects except no cost projects for discontinuation), the permit holder must receive an authorization to obligate the project from the Agency. Authorization is based on a demonstration by the permit holder of continued compliance with all financial and economic feasibility criteria and that the project is in accord with the representations contained in the application and in compliance with the alteration requirements in Section 1130.750. It is the responsibility of the permit holder to initiate the authorization to obligate process by written notification to the Agency.
- c) Prior to signing the principal contract(s) or otherwise obligating the project pursuant to Section 1130.140 by expending an amount equal to or exceeding the review thresholds for capital expenditures or acquisition of major medical equipment, or by an amount equal to or greater than 33% of the permit amount, whichever is less, the permit holder shall submit the following for an authorization to obligate request:
- 1) project identification information including permit number and name of permit holder;
 - 2) documentation of sufficient financial resources to complete the project as evidenced by a commitment document from a financial institution or other lender indicating that funding will be provided or by a certification that the governing body has authorized the release of funds and has reserved sufficient funds to complete the project a statement that sources of financing have not changed or if changed, to what degree and for what reason;
 - 3) a revised breakdown of project costs and sources of funds;
 - 4) unsigned copies of all contracts, purchase orders or lease agreements involving the project; and
 - 5) a statement which lists the alterations, if any, that are proposed;
 - 6) proof that, if the project is subject to architectural/drawing review by the Agency (pursuant to licensing requirements), approval of such drawings has been obtained; and
 - 7) if no alterations are proposed, certification that the project's scope is in accord with the representations contained in the application.
- d) Projects approved prior to March 1, 1995 which do not exceed ten percent of the originally approved permit amount and which reflect

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continued compliance with the debt financing limitations, the financial and economic feasibility requirements, and the alteration requirements of the State Board shall be authorized to obligate.

- e) Projects approved subsequent to March 1, 1995 which do not exceed the permit amount and which reflect continued compliance with the debt financing limitations, the financial and economic feasibility requirements, the documentation requirements of this Section and the alteration requirements of the State Board shall be authorized to obligate.
- f) Projects with altered permit amounts, regardless of the permit approval date, or the alteration approval date, which do not exceed the altered permit amount and which reflect continued compliance with debt financing limitations, financial and economic feasibility requirements, the documentation requirements of this Section, and the alteration requirements of the State Board shall be authorized to obligate.
- g) Obligation of a project occurs only upon receipt of all documentation required pursuant to Part 1130.140 for project obligation.
- h) Permits for projects which have not been obligated prior to the expiration date of the permit shall be considered expired and the project abandoned.
- i) Failure to comply with the authorization to obligate requirements shall be cause for the State Board to initiate proceedings to revoke the permit and/or seek sanctions provided by the Act.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1130.730 Extension of the Obligation Period

- a) The State Board may grant the permit holder a single extension of time to obligate the project. An extension shall not exceed three months and shall commence on the expiration date of the permit (i.e., 12 or 18 months from the date of State Board approval pursuant to Section 1130.710). Permits not obligated within approved time frames will expire.
- b) In requesting an extension, the permit holder shall describe, in writing, the events which have delayed the project's timely obligation and provide the following documentation:
 - 1) for major construction proposals, evidence that design development drawings have been prepared;
 - 2) for provision of major equipment, evidence that suppliers have been solicited and cost estimates received;
 - 3) for provision of new services, evidence that substantial actions leading to the provision of such services have been accomplished;
 - 4) a revised schedule indicating how obligation will be accomplished within the extension period requested;
 - 5) evidence that approval of loans, issuance of bonds or other

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necessary means of financing have been approved or can be secured where necessary for project funding per the application;

- 6) the amount of funds expended to date for the project.
- c) A request for extension shall be made in writing and shall be received by the State Agency no later than forty-five days before the permit expiration date. A request for extension which is not submitted in accordance with this time frame above shall not be presented to the State Board for action.
- d) The State Board shall evaluate the information submitted in making its determination whether to grant the extension. Projects which continue to comply with the provisions of 77 Ill. Adm. Code 1110 and 1120 and which have shown good cause by submitting the required information for an extension request specified in Section 1130.730(b), and that the causes for delays are beyond the permit holder's control, shall be approved for extension. Eight Seven affirmative votes are required for approval of an extension. Denial by the State Board of an extension request shall constitute the final State Board decision and is not subject to administrative appeal.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1130.740 Renewal of a Permit

A project must be completed within the timeframes specified in Section 1130.710(a) unless renewed by the State Board.

- a) Renewal of a permit by the State Board for projects not completed is subject to the following:
 - 1) Projects which have not obtained permit renewals and which were obligated prior to May 1, 1990, must have obtained permit renewals no later than March 26, 1994.
 - 2) Projects which have obtained permit renewals or which were obligated after May 1, 1990, must be completed or obtain permit renewals prior to the required project completion date.
- b) Failure to complete a project or to renew a permit within the prescribed timeframes shall result in the expiration of the permit for lack of due diligence, and the matter shall not be subject to an administrative hearing under 77 Ill. Adm. Code 1180 and the project shall be considered abandoned.
- c) A permit renewal shall commence on the expiration date of the original or renewed completion period.
- d) The request for permit renewal shall be in writing and shall be received by the State Agency at least 45 days but no more than 90 days prior to the expiration date of the completion period, and shall include the following information:
 - 1) the requested completion date; and
 - 2) a status report on the project detailing what percent has been completed and a summary of project components yet to be finished

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- and the amount of funds expended on the project to date; and
- 3) a statement as to the reasons why the project has not been completed; and
 - 4) evidence of financial commitment to fund the project; and
 - 5) the anticipated final cost of the project.
- e) The State Board will evaluate the information submitted to determine if the project has proceeded with due diligence [as defined in Section 1130.140(k)]. Eight Seven affirmative votes are required to approve a renewal. Denial of a permit renewal request shall constitute the State Board's "Notice of Intent to Revoke" a permit and shall be subject to appeal under the provisions of 77 Ill. Adm. Code 1180 (Practice and Procedure in Administrative Hearings).
- AGENCY NOTE: Permit revocation procedures are explained in Section 1130.780.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1130.750 Alteration of a Project for which a Permit Has Been Issued

A permit is valid only for the defined construction or modification, equipment, site, amount and person(s) named in the application. Any change to a project subsequent to the State Board's issuance of a permit constitutes an alteration to the project. Alterations which substantially change the characteristics of a project may result in invalidating a permit or revocation of a permit.

- a) The permit holder shall notify the State Agency in writing of any alterations to a project for which a permit has been issued prior to incurring the proposed alteration. The notice shall include a description of the alteration and related costs (if any) as well as information regarding financing for the cost increase (if any).
- b) For alterations which require State Board approval per Section 1130.750(c), a request for alteration must be submitted to the State Agency. The request must be received by the State Agency at least 45 days prior to the next scheduled State Board meeting and contain a description of the proposed alteration, including related costs and financing, and must address all applicable review criteria related to the alteration.
- c) Prior to the permit holder obligating a project and incurring a proposed alteration, approval must be obtained from the State Board for the following: ~~The following proposed alterations require approval by the State Board prior to the permit holder incurring the alteration:~~
 - 1) a change in the approved number of beds or stations; or
 - 2) abandonment of a category of service approved; or
 - 3) an increase in the square footage of the project that does not exceed the lesser of 5% of the approved square footage or 5,000 additional gross square feet ~~if such increase is not in compliance with 77 Ill. Adm. Code 1110 and 1120; or~~

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- 4) for projects, other than ~~Master-Construction~~ projects approved pursuant to a master design permit, approved prior to March 1, 1995, an increase in the cost of the project which exceeds ten percent of the original approved permit amount; or
 - 5) for projects approved subsequent to March 1, 1995, and for ~~Master Construction~~ projects approved pursuant to a master design permit regardless of approval date, any increase in the cost of the project which exceeds the permit amount; or
 - 6) for projects with altered permit amounts, regardless of permit approval date or alteration approval date, any increase in the altered permit amount; or
 - 7) any increase in the amount of funds to be borrowed; or
 - 8) any increase in the approved permit amounts for project cost components (line item amounts) if such increase is not in compliance with 77 Ill. Adm. Code 1120.
- d) Subsequent to the permit holder's obligation of a project and prior to incurring a proposed alteration, approval must be obtained from the State Board for the following:
- 1) a change in the approved number of beds or stations; or
 - 2) abandonment of a category of service approved; or
 - 3) any change in the project's design or change in the project's gross square footage unless such change is required or mandated by local, State, or federal building or life-safety requirements that were not in effect at the time of project obligation; or
 - 4) any increase in the amount of funds to be borrowed; or
 - 5) any increase in the permit amount; or
 - 6) any increase in project cost components (line item amounts) if such increase is not in compliance with 77 Ill. Adm. Code 1120.
- e) The following proposed alterations are not allowable and if incurred result in invalidating the permit:
- 1) an increase in project costs that exceeds the capital expenditure minimum prior to obligation; or
 - 2) an increase in the project's gross square footage in excess of the lesser of 5% of approved gross square footage or 5,000 additional gross square feet prior to obligation; or
 - 3) an increase in the project's gross square footage that has not been required or mandated by local, State, or federal building or life-safety requirements that were not in effect at the time of project obligation.
- f) Alteration Procedures
- 1) The State Agency shall review the alteration request for compliance with the review criteria and submit its findings to the State Board. If additional information is needed by the Agency to perform a review of the request, the permit holder shall be notified.
 - 2) A request for alteration reviewed by the State Board is subject to the provisions of 77 Ill. Adm. Code 1110-1120-307 or 1120, which are applicable to the individual project. Any proposed

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increase to a permit amount that exceeds the State Board's thresholds for capital expenditures can be reviewed as an alteration to the project providing that there are no other components to the proposed alteration that, when taken as a separate component, require a permit under the Act. Such components and any other proposed alterations to a project which would, when taken as a separate component, require a permit under the Act, shall not be subject to review under this Section but shall require a new application.

ge) Upon approval of a request for alteration, the Agency shall revise the permit to reflect the alteration and shall adjust all inventories accordingly. If a permit holder reduces the scope or size of the project, the permit amount shall be reduced accordingly.

hf) Decisions on requests for alteration shall be transmitted, in writing, to the permit holder by the Executive Secretary.

ig) Eight Seven affirmative votes are required for approval of an alteration. The approval or denial of a request for alteration constitutes the State Board's final administrative decision. Approval of an alteration is based on the continued compliance of the project with 77 Ill. Adm. Code 1110 or 1120, as applicable.

jh) Any alteration without State Board approval (when required) shall be considered a violation of the Act and shall be subject to the penalties mandated in the Act and in Section 1130.790.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 1130.APPENDIX A Annual Inflation Adjustments to Review Thresholds

1. Capital Expenditures (Other than Major Medical Equipment):

Baseline	Inflation Factor	Revised Review Threshold	Effective Date of Revision
\$2,000,000	1.07891	\$2,157,820	October 1, 1991
\$2,157,820	1.02717	\$2,216,448	October 1, 1992
\$2,216,448	1.06350	\$2,357,193	October 1, 1993
\$2,357,193	1.02000	\$2,404,337	October 1, 1994
\$2,404,337	1.02900	\$2,474,063	October 1, 1995
\$2,474,063	1.03000	\$2,548,285	October 1, 1996
\$2,548,285	1.02400	\$2,609,444	October 1, 1997

\$2,609,448	1.035	\$2,670,000	
\$2,670,000	1.035	\$2,721,750	
\$2,721,750	1.035	\$2,777,020	October-17-1991
\$2,777,020	1.037	\$2,836,740	March-267-1993
\$2,836,740	1.034	\$2,957,193	March-17-1995

2. Major Medical Equipment:

Baseline	Inflation Factor	Revised Review Threshold	Effective Date of Revision
\$1,000,000	1.11827	\$1,118,272	October 1, 1991
\$1,118,272	1.03600	\$1,158,530	October 1, 1992
\$1,158,530	1.02300	\$1,185,176	October 1, 1993
\$1,185,176	1.02299	\$1,212,422	October 1, 1994
\$1,212,422	1.02301	\$1,240,318	October 1, 1995
\$1,240,318	1.02400	\$1,270,086	October 1, 1996
\$1,270,086	1.02100	\$1,296,758	October 1, 1997

\$1,296,758	1.028	\$1,320,000	
\$1,320,000	1.049	\$1,367,372	
\$1,367,372	1.037	\$1,410,272	October-17-1991
\$1,410,272	1.036	\$1,450,500	March-267-1993
\$1,450,500	1.023	\$1,485,176	March-17-1995

3. Calculation of Inflation Factors:

Inflation factors, for capital equipment projects represent the percentage increase or decrease in the related health care costs from July 1st of the preceding calendar year to July 1st of the year for which the adjustment is to be made. The capital threshold is adjusted utilizing the annualized data from the report year as compared to the preceding year. A growth in costs of five percent during this twelve-month period would result in an inflation factor of 1.05.

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

4. Source of Data:

The capital expenditure threshold adjustment for all items other than major medical equipment is taken from the latest edition of the Hospitals component of Square Footage, Cubic Feet and Percent of Total Costs (item--460) from "Building Construction Cost Data 1996-48th Annual-Edition."

*The-baseline-threshold-amounts-have-been-adjusted-for-inflation-for-the-period of-1988-to-1989;--The-calculated-adjustment-shown-reflects-the--1989--to--1990 time-period.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Carriage by Public Highway2) Code Citation: 92 Ill. Adm. Code 1773) Section Numbers: Proposed Action:
177.2000 Amend4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act (430 ILCS 30/4(a) and 9(a))5) A complete description of the subjects and issues involved: By this Notice of Proposed Amendments, the Department is updating the date of incorporation by reference of 49 CFR 177, as of October 1, 1996, and including the federal rulemakings adopted at 62 FR 1217, January 8, 1997; 62 FR 46214, September 2, 1997; and 62 FR 51554, October 1, 1997.

The Department's regulations will incorporate changes made in the following Dockets:

Docket HM-206 (62 FR 1217, January 8, 1997) Amends the Hazardous Materials Regulations to better identify hazardous materials in transportation. Changes include adding a new "POISON INHALATION HAZARD" label and placard to enhance the identification of materials which are poisonous if inhaled lowering the quantity for specific hazard class placarding and other enhancements to the hazard communication system. Improves identification of hazardous materials in transportation by assisting emergency response personnel in responding to incidents involving hazardous materials.

Docket HM-169-B (62 FR 46214, September 2, 1997) Removes Radiation Protection program regulations and related model provisions for persons who offer, accept for transportation, or transport radioactive materials.

Docket HM-189-N (62 FR 51554, October 1, 1997) Corrects editorial errors, and makes minor regulatory changes. The intended effect of this rule is to enhance the accuracy and reduce misunderstanding of the HMR.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Does this proposed amendment contain incorporations by reference? Yes. These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.9) Are there any other amendments pending on this Part? No

DEPARTMENT OF TRANSPORTATION

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- 10) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, IL 62794-9212
(217) 785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety; 3rd Floor
Springfield, IL

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 300
Springfield, IL 62764
(217)782-3215

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

- 12) Initial Regulatory Flexibility Analysis:

- A) Type of small businesses affected: This rulemaking affects small businesses which transport placarded hazardous materials.
- B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements are necessary for compliance.
- C) Types of professional skills necessary for compliance: No additional skills are necessary for compliance.

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- 13) Regulatory Agenda on which this rulemaking was summarized: July 1997
- The full text of the Proposed Amendment begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
 CHAPTER I: DEPARTMENT OF TRANSPORTATION
 SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 177
 CARRIAGE BY PUBLIC HIGHWAY

Section
 177.1000 General
 177.2000 Incorporation By Reference of 49 CFR 177

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, P. A1, effective February 1, 1979; amended at 4 Ill. Reg. 30, P. 1244, effective July 10, 1980; amended at 6 Ill. Reg. 4287, effective April 16, 1982; amended at 7 Ill. Reg. 3486, effective April 2, 1983; codified at 8 Ill. Reg. 19930; Part repealed, new Part adopted at 10 Ill. Reg. 5853, effective April 1, 1986; amended at 10 Ill. Reg. 20749, effective December 1, 1986; amended at 11 Ill. Reg. 4768, effective March 10, 1987; amended at 11 Ill. Reg. 17881, effective October 20, 1987; amended at 12 Ill. Reg. 8074, effective April 26, 1988; amended at 13 Ill. Reg. 3957, effective March 14, 1989; amended at 14 Ill. Reg. 2613, effective February 1, 1990; amended at 15 Ill. Reg. 7743, effective May 7, 1991; amended at 16 Ill. Reg. 11843, effective July 13, 1992; amended at 18 Ill. Reg. 7852, effective May 6, 1994; amended at 20 Ill. Reg. 6531, effective April 30, 1996; amended at 22 Ill. Reg. _____, effective _____.

Section 177.2000 Incorporation By Reference of 49 CFR 177

- a) As Part 177 of the Illinois Hazardous Materials Transportation Regulations the Department incorporates 49 CFR 177 by reference, as that part of the federal hazardous materials transportation regulations was in effect on October 1, 1996 1994; as amended at 62 FR 1217, January 8, 1997; as amended at 62 FR 46214, September 2, 1997; and as amended at 62 FR 51554, October 1, 1997 ~~as amended at 59--FR 673907-December-29, 1994; and as amended at 60--FR-502927-September-28, 1995~~, subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of 49 CFR 177 are incorporated.
- b) The following interpretations of, additions to and deletions from 49 CFR 177 shall apply for purposes of this Part.
- 1) All references to "this part" in the incorporated federal regulations shall mean Part 177 of the Illinois Hazardous Materials Transportation Regulations.
 - 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter C.

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- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
- 4) All references to Parts 174, 175 or 176, or to sections therein shall be read to refer to those Parts or sections in the federal hazardous materials transportation regulations.
- 5) All references to shipment of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.
- 6) All references to motor vehicles engaged in interstate commerce shall be deemed to include any motor vehicle engaged in commerce within the State of Illinois.

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Continuing Qualification and Maintenance of Packaging
- 2) Code Citation: 92 Ill. Adm. Code 180
- 3) Section Numbers: Proposed Action
180.2000 Amend
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)]

5) A complete description of the subjects and issues involved: By this Notice of Proposed Amendments, the Department is updating the date of incorporation by reference of 49 CFR 180, as of October 1, 1996, and including the federal rulemakings adopted at 62 FR 1208, January 8, 1997 and 62 FR 51554, October 1, 1997.

The Department's regulations will incorporate changes made in the following Dockets:

Docket HM-200 (62 FR 1208, January 8, 1997) Requires all intrastate shippers and carriers to comply with the Hazardous Materials Regulations with certain exceptions. The intended effect of this rule is to raise the level of safety in the transportation of hazardous materials.

Docket HM-189-N (62 FR 51554, October 1, 1997) Corrects editorial errors, and makes minor regulatory changes. The intended effect of this rule is to enhance the accuracy and reduce misunderstanding of the HMR.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes, these conform to Section 5-75(a) of the Illinois Administrative Procedure Act.

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, IL 62794-9212
(217) 785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety; 3rd Floor
Springfield, IL

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 300
Springfield, IL 62764
(217)782-3215

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses affected: This rulemaking affects small businesses which transport placarded hazardous materials.

B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements are necessary for compliance.

C) Types of professional skills necessary for compliance: No additional skills are necessary for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
 CHAPTER I: DEPARTMENT OF TRANSPORTATION
 SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 180

CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGING

Section

180.1000 General

180.2000 Incorporation by Reference of 49 CFR 180

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 14 Ill. Reg. 2617, effective February 1, 1990; amended at 15 Ill. Reg. 7748, effective May 7, 1991; amended at 16 Ill. Reg. 11847, effective July 13, 1992; amended at 18 Ill. Reg. 7857, effective May 6, 1994; amended at 20 Ill. Reg. 6535, effective April 30, 1996; amended at 22 Ill. Reg. _____, effective _____.

Section 180.2000 Incorporation by Reference of 49 CFR 180

- a) As Part 180 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates 49 CFR 180 by reference, as that Part of the federal hazardous materials transportation regulations was in effect on October 1, 1996; as amended at 62 FR 1208, January 8, 1997; and as amended at 62 FR 51554, October 1, 1997, 1994, ~~as amended at 59 PR 55162, November 37, 1994, as amended at 60 PR 17390, April 57, 1995, and as amended at 60 PR 49048, September 21, 1995~~, subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of 49 CFR 180 are incorporated.
- b) The following interpretations of, additions to and deletions from 49 CFR 180 shall apply for purposes of this Part.
- 1) All references to "this part" in the incorporated federal regulations shall mean part 180 of the Illinois Hazardous Materials Transportation Regulations.
 - 2) All references to "this chapter" or "this Subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter C.
 - 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
 - 4) All references to Parts 174, 175, 176, or to sections therein shall be read to refer to those parts or sections in the federal hazardous materials transportation regulations.
 - 5) All references to shipments of hazardous materials by air, water

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and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

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1) Heading of the Part: General Information, Regulations and Definitions2) Code Citation: 92 Ill. Adm. Code 171Section Numbers:

171.2 Amend

171.3 Amend

171.21 Amend

171.1000 Amend

4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)]

5) A complete description of the subjects and issues involved: By this Notice of Proposed Amendments, the Department is updating the date of incorporation by reference of 49 CFR 171, as of October 1, 1996, and including the federal rulemakings adopted at 61 FR 65958, December 16, 1996; 62 FR 1208, January 8, 1997; 62 FR 1217, January 8, 1997; 62 FR 7638, February 19, 1997; 62 FR 24690, May 6, 1997; 62 FR 29673, June 2, 1997; 62 FR 30767, June 5, 1997; 62 FR 34667, June 27, 1997; 62 FR 39398, July 22, 1997; 62 FR 44038, August 18, 1997; 62 FR 44913, August 25, 1997; 62 FR 49560, September 22, 1997; and 62 FR 51554, October 1, 1997.

The Department's regulations will incorporate changes made in the following Dockets:

Docket HM-215B (61 FR 65958, December 16, 1996) Updates references in the Hazardous Materials Regulations to include the most recent amendments to international standards. These amendments are necessary to facilitate the continued transport of hazardous materials in international commerce.

Docket HM-200 (62 FR 1208, January 8, 1997) Requires that all intrastate shippers and carriers comply with the Hazardous Materials Regulations with certain exceptions. The intended effect of this rule is to raise the level of safety in the transportation of hazardous materials.

Docket HM-206 (62 FR 1217, January 8, 1997) Amends the Hazardous Materials Regulations to better identify hazardous materials in transportation. Changes include adding a new "POISON INHALATION HAZARD" label and placard to enhance the identification of materials which are poisonous if inhaled, lowering the quantity for specific hazard class placarding and other enhancements to the hazard communication system. Improves identification of hazardous materials in transportation by assisting emergency response personnel in responding to incidents involving hazardous materials.

Docket HM-225 (62 FR 7638, February 19, 1997) Specifies the conditions under which certain cargo tank motor vehicles may continue to be used on

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an interim basis.

Docket HM-215B (62 FR 24690, May 6, 1997) Amends the Hazardous Materials Regulations to maintain alignment with corresponding provisions of international standards. These revisions are necessary to facilitate the transport of hazardous materials in international commerce.

Docket HM-221B (62 FR 29673, June 2, 1997) Allows the transportation of certain liquid hazardous materials in non-specification open-head fiber drums until September 30, 1999, if the fiber drums have been filled before, and are not emptied and refilled after, the expiration of the current authority for the use of these packagings.

Docket HM-224A (62 FR 30767, June 5, 1997) Amends the Hazardous Materials Regulations to add a specific shipping description to the Hazardous Materials Table for chemical oxygen generators and to require approval of a chemical oxygen generator, and its packaging, when the chemical oxygen generator is to be transported with its means of initiation attached.

Docket HM-224A (62 FR 34667, June 27, 1997) Delays the effective date of the final rule of June 5, 1997; authorizes permissive compliance immediately; and corrects an error in the Hazardous Materials Table.

Docket HM-206 (62 FR 39398, July 22, 1997) Makes changes and corrects errors to the final rule published on January 8, 1997. Changes include postponement until October 1, 1998, of the effective date of the January 8, 1997 final rule, and until October 1, 1999, of the date for compliance with a requirement for new labels on packagings containing materials poisonous by inhalation.

Docket HM-225 (62 FR 44038, August 18, 1997) Revises and extends requirements issued in an interim final rule on February 19, 1997. The rule requires a specific marking on affected cargo tank motor vehicles and requires motor carriers to comply with additional operational controls intended to compensate for the inability of passive emergency discharge control systems to function as required.

Docket HM-221-B (62 FR 44913, August 25, 1997) Confirms the October 1, 1997 effective date of the direct final rule in this rulemaking docket, published on June 2, 1997.

Docket HM-200 (62 FR 49560, September 22, 1997) Makes changes and corrects errors in the final rule published on January 8, 1997. Changes include postponement until October 1, 1998 for the effective date of the January 8, 1997 final rule.

Docket HM-189-N (62 FR 51554, October 1, 1997) Corrects editorial errors, and makes minor regulatory changes. The intended effect of this rule is

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to enhance the accuracy and reduce misunderstanding of the HMR.

Sections 171.2(a) and (b) are being amended to include the language that a person engaged in the transportation of hazardous materials may transport under an exemption or approval issued by the U. S. Department of Transportation. This language will be consistent with 49 CFR 171.

Section 171.2(d) is being removed. It contains transportation requirements for radioactive materials. This subsection is no longer necessary as a radioactive material is now defined as a hazardous material and therefore regulated by Sections 171.2(a) and (b).

Sections 171.3(a) and b(2) are being amended to clarify the reference in these subsections to the Federal Hazardous Materials Regulations contained in 49 CFR.

Section 171.3(d) is being removed. This requirement is identical to 49 CFR 171.12(a) which is incorporated by reference in Section 171.1000. Duplication is unnecessary.

Section 171.21 is being repealed. However, 49 CFR 173.6 allows a "materials of trade" exception, which is incorporated by reference in Section 171.1000. The "materials of trade" exception is broader in scope than the "retailer" exception contained in Section 171.21. Since the exceptions in Section 171.21 are contained in 49 CFR 173.6, this Section is unnecessary. An agency note is being added to Section 171.21 to reference 49 CFR 173.6.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes. These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, IL 62794-9212
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By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety; 3rd Floor
Springfield, IL

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 300
Springfield, IL 62764
(217)782-3215

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses affected: This rulemaking affects small businesses which transport placarded hazardous materials.

B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements are necessary for compliance.

C) Types of professional skills necessary for compliance: No additional skills are necessary for compliance.

13) State reason(s) for this rulemaking if it was not included in either of the 2 most recent regulatory agendas: July 1997

The full text of the Proposed Amendment begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER c: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 171
GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

- Section
171.1 Purpose and Scope
171.2 General Transportation Requirements
171.3 Hazardous Waste
171.4 Exemptions (Renumbered)
171.5 Agricultural Exception
171.6 Agricultural Exception (Renumbered)
171.7 Matter Incorporated by Reference (Repealed)
171.8 Definitions and Abbreviations (Repealed)
171.9 Rules of Construction (Repealed)
171.12 Import and Export Shipments (Repealed)
171.14 Specification Markings (Repealed)
171.15 Incident Reporting Requirements
171.17 Exemptions
171.18 Continuation of Effectiveness of Existing Bureau of Explosives Registrations (Repealed)
171.19 Approvals or Authorizations Issued by the Bureau of Explosives (Repealed)
171.21 Retailer Exception
171.1000 Incorporation by Reference of 49 CFR 171

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. 41, effective February 1, 1979; amended at 6 Ill. Reg. 4287, effective April 16, 1982; amended at 7 Ill. Reg. 3486, effective April 2, 1983; codified at 8 Ill. Reg. 17984; amended at 10 Ill. Reg. 9636, effective May 15, 1986; amended at 10 Ill. Reg. 20753, effective December 1, 1986; emergency amendment at 11 Ill. Reg. 1684, effective January 16, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 4772, effective March 10, 1987; amended at 11 Ill. Reg. 7767, effective April 14, 1987; amended at 11 Ill. Reg. 17886, effective October 20, 1987; amended at 12 Ill. Reg. 8078, effective April 26, 1988; amended at 13 Ill. Reg. 3984, effective March 14, 1989; amended at 14 Ill. Reg. 2621, effective February 1, 1990; amended at 15 Ill. Reg. 7752, effective May 7, 1991; amended at 16 Ill. Reg. 12208, effective July 20, 1992; amended at 18 Ill. Reg. 7861, effective May 6, 1994; amended at 20 Ill. Reg. 6539, effective April 30, 1996; emergency amendment at 21 Ill. Reg. 4043, effective March 17, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. _____, effective _____.

Section 171.2 General Transportation Requirements

- a) No person may offer or accept a hazardous material for transportation by highway in Illinois unless that person complies with Subpart E of 92 Ill. Adm. Code 107 and the hazardous material is properly classified, described, packaged, marked, labeled, placarded and in the condition for shipment as required by these regulations or an exemption or approval issued by U.S. DOT.
- b) Unless specifically excepted by these regulations, no person may accept for transportation or transport a hazardous material by highway in Illinois unless that person complies with Subpart E of 92 Ill. Adm. Code 107 and the hazardous material is handled and transported in accordance with this Subchapter or an exemption or approval issued by U.S. DOT.
- c) No person may offer, accept, or transport a hazardous material by highway in Illinois, regardless of the quantity of hazardous material in the shipment or on the vehicle, if that material poses an imminent danger to the public. The State Police are authorized to stop any vehicle that constitutes an imminent danger. For the purpose of this Section, an imminent danger exists if, in the opinion of the State Police officer or the representative of the Department at the scene, the offer, acceptance, or transportation of that hazardous material is likely to cause death, serious illness, or severe personal injury.
- d) ~~No person may offer or accept for transportation or transport any quantity of radioactive material by highway in Illinois unless that person complies with Subpart B of 92 Ill. Adm. Code 107 and the hazardous material is properly classified, described, packaged, marked, labeled, placarded, handled and transported in accordance with these regulations.~~

(Source: Amended at 22 Ill. Reg. _____, effective _____.)

Section 171.3 Hazardous Waste

- a) No person may offer for transportation or transport a hazardous waste (as defined in Section 49 CFR 171.8) by highway in Illinois except in accordance with the requirements of this Subchapter.
- b) No person may accept for transportation, transport, or deliver a hazardous waste for which a manifest is required unless that person:
- 1) has marked each motor vehicle used to transport hazardous waste in accordance with 92 Ill. Adm. Code 390.21 or 49 CFR 1058.2 even though placards may not be required;
 - 2) complies with the requirement for manifests set forth in 49 CFR 92.111-Adm-Code 172.205; and
 - 3) delivers, as designated on the manifest by the generator, the entire quantity of the waste received from the generator or a transporter to:
 - A) the designated facility or, if not possible, to the designated alternate facility;

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- B) the designated subsequent carrier; or
- C) a designated place outside the United States.
- c) If a discharge of hazardous waste or other hazardous material occurs during transportation, and an official of a State or local government or a Federal agency, acting within the scope of his official responsibilities, determines that immediate removal of the waste is necessary to prevent further consequence, that official may authorize the removal of the waste without the preparation of a manifest.
- d) If a hazardous material that is a hazardous waste is required by this Subchapter to be shipped in a closed-head drum (i.e., a drum with a 7-8-cm (3-inches) or less bung opening) and the hazardous waste contains solids or semisolids that make its placement in a closed-head drum impracticable, an equivalent (except for closure) open-head drum may be used for the hazardous waste.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 171.21 Retailer Exemption

AGENCY NOTE: See 49 CFR 173.6 pertaining to Materials of Trade Exemption.

- a) Hazardous materials with hazard class or division numbers listed in Table 2 of 49 CFR 172.504(e) which are transported in less than case lot quantities or when repackaged to comply with the quantity limitations prescribed in subsection (b) are not subject to these regulations if all of the following conditions are met:
- 1) Packagings of hazardous materials are enclosed in strong outside packages (49 CFR 171.87) cushioned, if necessary, to prevent breaking and leakage (49 CFR 173.24 and 173.24a);
- 2) Gross weight of less than case lots and single unit packagings is not over 45 kilograms (100 pounds) per vehicle;
- 3) Transportation is by private motor vehicle in intrastate commerce between a final distribution point and a retail establishment or between a retail establishment and a final end user; and
- 4) The distance to be travelled does not exceed 161 kilometers (100 miles);
- b) Each packaging of hazardous materials subject to this exception shall not exceed the quantity limits established below:
- 1) For liquids, 19 liters (5 gallons);
- 2) For dry materials, 11 kilograms (25 pounds);
- 3) For compressed gases,--
- A) In containers of not more than four fluid ounces capacity (7.22 cubic inches or less);
- B) In metal containers with pressure not exceeding 100 psig at 130°F, not to exceed 37.7 fluid ounces (50 cubic inches);
- C) For freon, authorized cylinders not to exceed 30-pound capacity; or

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- B) Any other packaging authorized as inside packaging by 49 CFR 171.1000-Adm-Code-173-306-

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 171.1000 Incorporation by Reference of 49 CFR 171

- a) As Part 171 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates the following sections of 49 CFR 171 by reference, as those sections of the federal hazardous materials transportation regulations were in effect on October 1, 1996; as amended at 61 FR 65938, December 16, 1996; as amended at 62 FR 1208, January 8, 1997; as amended at 62 FR 1217, January 8, 1997; as amended at 62 FR 7638, February 19, 1997; as amended at 62 FR 24690, May 6, 1997; as amended at 62 FR 29673, June 2, 1997; as amended at 62 FR 30767, June 5, 1997; as amended at 62 FR 34667, June 27, 1997; as amended at 62 FR 39398, July 22, 1997; as amended at 62 FR 44038, August 18, 1997; as amended at 62 FR 44913, August 25, 1997; as amended at 62 FR 49560, September 22, 1997; and as amended at 62 FR 51554, October 1, 1997, 1994, as amended at 59 PR 531167, October 21, 1994, as amended at 59 PR 55162, November 3, 1994, as amended at 59 PR 64742, December 15, 1994, as amended at 59 PR 673967, December 29, 1994, as amended at 60 PR 267967, May 18, 1995, as amended at 60 PR 396087, August 2, 1995, as amended at 60 PR 400307, August 4, 1995, as amended at 60 PR 487807, September 20, 1995, as amended at 60 PR 490487, September 21, 1995, as amended at 60 PR 491067, September 21, 1995, and as amended at 60 PR 502927, September 28, 1995, subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of those sections of 49 CFR 171 are incorporated.

171.4	Marine Pollutions
171.7	Referenced Material
171.8	Definitions and Abbreviations
171.9	Rules of Construction
171.10	Units of Measure
171.11	Use of ICAO Technical Instructions
171.12	Import and Export Shipments
171.12a	Canadian Shipments and Packagings
171.14	Transitional Provisions
	for Implementing Requirements Based on the UN Recommendations
171.18	Continuation of Effectiveness of Existing Bureau of Explosives Registrations
171.19	Approvals or Authorizations Issued by the Bureau of Explosives
171.20	Submission of Examination Reports

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- b) The following interpretations of, additions to and deletions from the above incorporated sections of 49 CFR 171 shall apply for purposes of this Part.

- 1) All references to "this part" in the incorporated federal regulations shall mean Part 171 of the Illinois Hazardous Materials Transportation Regulations.
- 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.
- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
- 4) All references to Part 176 or to sections therein shall be read to refer to that part or sections in the federal regulations.
- 5) All references to shipments of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.
- 6) All references to "these regulations" refers to the Illinois Hazardous Materials Transportation Regulations, 92 Ill. Adm. Code 107 through 180.
- 7) All references to a "settlement agreement", in these regulations, means a written understanding between the Department and the person being charged.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Hazardous Materials Table and Hazardous Materials Communications
- 2) Code Citation: 92 Ill. Adm. Code 172
- 3) Section Numbers: Proposed Action: 172.2000 Amend
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)]
- 5) A complete description of the subjects and issues involved: By this Notice of Proposed Amendments, the Department is updating the date of incorporation by reference of 49 CFR 172 as of October 1, 1996, and including the federal rulemakings adopted at 62 FR 1217, January 8, 1997; 62 FR 14334, March 26, 1997; 62 FR 24690, May 6, 1997; 62 FR 30767, June 5, 1997; 62 FR 34667, June 27, 1997; 62 FR 39398, July 22, 1997; 62 FR 45702, August 28, 1997; 62 FR 46214, September 2, 1997; and 62 FR 51554, October 1, 1997.

The Department's regulations will incorporate changes made in the following Dockets:

Docket HM-206 (62 FR 1217, January 8, 1997) Amends the Hazardous Materials Regulations to better identify hazardous materials in transportation. Changes include adding a new "POISON INHALATION HAZARD" label and placard to enhance the identification of materials which are poisonous if inhaled, lowering the quantity for specific hazard class placarding and other enhancements to the hazard communication system. Improved identification of hazardous materials in transportation assists emergency response personnel in responding to incidents involving hazardous materials.

Docket HM-181H (62 FR 14334, March 26, 1997) Corrects errors in the September 26, 1996 final rule and responds to petitions for reconsideration.

Docket HM-215B (62 FR 24690, May 6, 1997) Amends the Hazardous Materials Regulations to maintain alignment with corresponding provisions of international standards. These revisions are necessary to facilitate the transport of hazardous materials in international commerce.

Docket HM-224A (62 FR 30767, June 5, 1997) Amends the Hazardous Materials Regulations to add a specific shipping description to the Hazardous Materials Table for chemical oxygen generators and to require approval of a chemical oxygen generator, and its packaging, when the chemical oxygen generator is to be transported with its means of initiation attached.

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Docket HM-224A (62 FR 34667, June 27, 1997) Delays the effective date of the final rule of June 5, 1997; authorizes permissive compliance immediately; and corrects an error in the Hazardous Materials Table.

Docket HM-206 (62 FR 99398, July 22, 1997) Makes changes and corrects errors to the final rule published on January 8, 1997. Changes include postponement until October 1, 1998, of the effective date of the January 8, 1997 final rule, and until October 1, 1999, of the date for compliance with a requirement for new labels on packagings containing materials poisonous by inhalation.

Docket HM-215-B (62 FR 45702, August 28, 1997) Makes corrections to final rule of May 6, 1997.

Docket HM-206 (62 FR 45702, August 28, 1997) Makes corrections to final rule of July 22, 1997.

Docket HM-169-B (62 FR 46214, September 2, 1997) Removes Radiation Protection Program regulations and related modal provisions for persons who offer, accept for transportation, or transport radioactive materials. Docket HM-189-N (62 FR 51554, October 1, 1997) Corrects editorial errors, and makes minor regulatory changes. The intended effect of this rule is to enhance the accuracy and reduce misunderstanding of the HMR.

Section 172.2000(b)(7) will be removed. The schedule of dates to establish the training program have passed. This subsection is no longer necessary.

- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes. These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety; Third Floor
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 300
Springfield, IL 62764
(217)782-3215

Comments received within 45 days after the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

- A) Type of small businesses affected: This rulemaking affects small businesses which transport placarded hazardous materials.
- B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements are necessary for compliance.
- C) Types of professional skills necessary for compliance: No additional skills are necessary for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the Proposed Amendment begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 172

HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS

Section

172.1000 General

172.2000 Incorporation by Reference of 49 CFR 172

172.2215 Permanent Shipping Papers (Repealed)

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, P. Al, effective February 1, 1979; amended at 6 Ill. Reg. 4287, 4487 and 4573, effective April 16, 1982; amended at 7 Ill. Reg. 3486, effective April 2, 1983; amended at 8 Ill. Reg. 19640, effective October 1, 1984; codified at 8 Ill. Reg. 19601; amended at 8 Ill. Reg. 19622, effective October 1, 1984; emergency amendment at 8 Ill. Reg. 22889, effective November 9, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 3810, effective March 11, 1985; Part repealed, new Part adopted at 10 Ill. Reg. 5864, effective April 1, 1986; amended at 10 Ill. Reg. 20759, effective December 1, 1986; emergency amendment at 11 Ill. Reg. 1690, effective January 16, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 4777, effective March 10, 1987; amended at 11 Ill. Reg. 7773, effective April 14, 1987; amended at 11 Ill. Reg. 17893, effective October 20, 1987; amended at 12 Ill. Reg. 8084, effective April 26, 1988; amended at 13 Ill. Reg. 3993, effective March 14, 1989; amended at 14 Ill. Reg. 2628, effective February 1, 1990; amended at 15 Ill. Reg. 7760, effective May 7, 1991; amended at 16 Ill. Reg. 11851, effective July 13, 1992; amended at 18 Ill. Reg. 7874, effective May 6, 1994; amended at 20 Ill. Reg. 6549, effective April 30, 1996; amended at 22 Ill. Reg. _____, effective _____.

Section 172.2000 Incorporation by Reference of 49 CFR 172

a) As Part 172 of the Illinois Hazardous Materials Transportation Regulations the Department incorporates 49 CFR 172 by reference, as that Part of the federal hazardous materials transportation regulations was in effect on October 1, 1996; as amended at 62 FR 1217, January 8, 1997; as amended at 62 FR 24690, May 6, 1997; as amended at 62 FR 30767, June 5, 1997; as amended at 62 FR 34667, June 27, 1997; as amended at 62 FR 39398, July 22, 1997; as amended at 62 FR 45702, August 28, 1997; as amended at 62 FR 46214, September 2, 1997; and as amended at 62 FR 51554, October 1, 1997, 19947-as-amended at-59-PR-673997-December-297-19947-as-amended-at-60-PR-627967-May-187-19957-as-amended-at-60-PR-396087-August-27-19957-as-amended-at-60-PR-399917-August-47-19957-as-amended-at-60-PR-400307-August-47-19957-as-

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~~amended-at-60-PR-407807-September-207-19957-as-amended-at-60-PR-490487-September-217-19957-as-amended-at-60-PR-491067-September-217-19957-and-as-amended-at-60-PR-502927-September-207-19957-subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of 49 CFR 172 are incorporated.~~

b) The following interpretations of, additions to and deletions from 49 CFR 172 shall apply for purposes of this Part.

- 1) All references to "this part" in the incorporated federal regulations shall mean Part 172 of the Illinois Hazardous Materials Transportation Regulations.
- 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter C.
- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
- 4) All references to Parts 174, 175, or 176, or to sections therein shall be read to refer to those parts or sections in the federal hazardous materials transportation regulations.
- 5) All references to shipment of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.
- 6) Any changes to 49 CFR 172 made effective by U.S. DOT Rulemaking Docket HM-187 [49 FR 21933 (May 24, 1984)] covering small arms ammunition are not incorporated.
- 7) The schedule established in Section 172.704 for implementation of a training program is modified as follows:
 - A) Part 172.704(c)(1)(i) is modified to require intrastate hazmat employees employed on or before July 27, 1994 to complete training prior to October 31, 1994.
 - B) Part 172.704(c)(1)(ii) is modified to require intrastate hazmat employees employed after July 27, 1994 to complete training within 90 days after employment.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of Part: Procedures
- 2) Code Citation: 92 Ill. Adm. Code 107
- 3) Section Numbers: Proposed Action:
107.315 Amend
107.601 Amend
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)]

5) A complete description of the subjects and issues involved: By this Notice of Proposed Amendments, the Department is updating the date of incorporation by reference of 49 CFR 107, Subpart G as of October 1, 1996. This rulemaking will also amend Section 107.315 to reduce the number of days, from 180 days to 90 days, that a person charged with a violation of the Illinois Hazardous Materials Transportation Regulations (IHMTTR) has to reach settlement before a Notice of Probable Violation can be served upon that person. This proposed change will result in a more efficient settlement of violations of the IHMTTR.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes. These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- (217) 785-1181
- By Messenger or Inter-Agency Mail:
- DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety; 3rd Floor
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 300
Springfield, IL 62764
(217)782-3215

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses affected: This rulemaking affects small businesses which transport placarded hazardous materials.

B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements are necessary for compliance.

C) Types of professional skills necessary for compliance: No additional skills are necessary for compliance.

13) Regulatory Agenda in which this rulemaking was summarized: July 1997

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
 CHAPTER I: DEPARTMENT OF TRANSPORTATION
 SUBCHAPTER c: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 107
 PROCEDURES

SUBPART A: GENERAL PROVISIONS

Section

107.1 Purpose and Scope
 107.3 Definitions
 107.5 Request for Confidential Treatment
 107.11 Service
 107.13 Subpoenas

SUBPART B: EXEMPTIONS

Section

107.101 Purpose and Scope
 107.102 Persons Holding Federal Exemptions
 107.103 Applications for Exemptions for Persons Transporting Hazardous Materials Not Governed by the Federal Hazardous Materials Regulations
 107.105 Application for Renewal
 107.107 Initial Application Review
 107.109 Processing of Application
 107.111 Party to an Exemption
 107.117 Withdrawal
 107.119 Termination
 107.121 Appeal
 107.123 Availability for Public Inspection

SUBPART D: ENFORCEMENT

Section

107.301 Responsibility for Enforcement
 107.303 Purpose and Scope
 107.305 Investigations
 107.307 Inspection and Examination of Records and Properties
 107.308 Notice of Apparent Violation
 107.309 Stopping of Vehicles
 107.310 Department Review of Notice of Apparent Violation
 107.311 Warning Letter
 107.313 Civil Penalties Generally
 107.314 Maximum Penalties
 107.315 Commencement of Civil Penalty Proceeding
 107.316 Reply
 107.317 Payment of Penalty
 107.318 Request for Hearing

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107.319 Hearing
 107.320 Presiding Officer's Decision
 107.321 Assessment Considerations
 107.323 Appeal
 107.331 Compliance Orders Generally
 107.333 Notice of Probable Violation
 107.334 Reply
 107.335 Consent Order
 107.336 Hearing
 107.337 Presiding Officer's Decision
 107.338 Compliance Order For Immediate Compliance
 107.339 Appeal
 107.341 Injunctions and Other Equitable Relief
 107.343 Imminent Hazards
 107.371 Criminal Penalties Generally
 107.373 Referral for Prosecution

SUBPART E: REGISTRATION OF PERSONS WHO OFFER OR TRANSPORT HAZARDOUS MATERIALS

Section

107.601 Incorporation by Reference of 49 CFR 107, Subpart G

APPENDIX A Standard Conditions Applicable to Exemptions, Packages, Containers, Shipments

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. Al, effective February 1, 1979; amended at 3 Ill. Reg. 49, p. 273, effective December 10, 1979; amended at 6 Ill. Reg. 4287, effective April 16, 1982; codified at 8 Ill. Reg. 17979; amended at 10 Ill. Reg. 5876, effective April 1, 1986; amended at 14 Ill. Reg. 2633, effective February 1, 1990; amended at 14 Ill. Reg. 8189, effective May 15, 1990; amended at 18 Ill. Reg. 7881, effective May 6, 1994; amended at 20 Ill. Reg. 6554, effective April 30, 1996; amended at 22 Ill. Reg. _____, effective _____.

SUBPART D: ENFORCEMENT

Section 107.315 Commencement of Civil Penalty Proceeding

- a) The Department, by the Director or his authorized representative, begins a civil penalty proceeding by serving a Notice of Intent to Assess Civil Monetary Penalty, in accordance with Section 107.11, on a person charging that person with having knowingly committed an act which is a violation of one or more provisions of the IHMPR.
- b) A Notice of Intent to Assess Civil Monetary Penalty issued under this

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Section shall include:

- 1) Notice of the provision(s) of the IHMTR or settlement agreement which the respondent is believed to have violated;
 - 2) A brief description of the manner in which the respondent is believed to have violated the IHMTR or settlement agreement;
 - 3) Notice of the maximum amount of civil penalty for which the respondent may be liable;
 - 4) Notice of the amount of the civil penalty sought to be assessed by the Department; pursuant to 92 Ill. Adm. Code 401;
 - 5) A description of the manner in which the respondent shall make payment in accordance with Section 107.317 of any money to the State;
 - 6) A statement that the respondent may request a conference with the Department, by verbal or written request to the Director, to review and discuss the alleged violation and civil penalty, and of the procedures for requesting a conference; and
 - 7) A statement that if a settlement cannot be reached within 90 days, a Notice of Probable Violation will be served upon the respondent, and the respondent will have an opportunity for a hearing as provided by Section 11 of the Act and the IHMTR.
- c) In the event that the Department and the respondent do not enter a settlement agreement following service of a Notice of Intent to Assess Civil Monetary Penalty, the Department by the Director shall serve a Notice of Probable Violation on the respondent.
- d) A Notice of Probable Violation issued under this Section includes:
- 1) A statement of the provision(s) of the IHMTR or of a settlement agreement which the respondent is believed to have violated;
 - 2) A statement of the factual allegations upon which the proposed civil penalty is being sought;
 - 3) Notice of the maximum amount of civil penalty for which the respondent may be liable;
 - 4) Notice of the amount of the civil penalty sought to be assessed by the Department;
 - 5) A description of the manner in which the respondent shall make payment of any money to the State in accordance with Section 107.317;
 - 6) A statement of respondent's right to request a hearing and the procedures for requesting a hearing in accordance with Section 107.318; and
 - 7) A statement of respondent's right to appear at the hearing and to present relevant written or oral explanations, information and materials in answer to the allegations or in mitigation of the penalty.
- e) A settlement of a civil penalty proceeding may be effectuated at any time upon agreement of the parties, shall be reduced to writing by the Department and signed by the parties. Terms of the settlement may include a reduction in the amount of the proposed civil penalty, and may include training and procedural requirements agreed upon by the

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respondent and Department. Training and procedural requirements may be agreed upon to increase awareness of and compliance with 92 Ill. Adm. Code 107 through 180, and 397, and those portions of 49 CFR adopted by reference.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART E: REGISTRATION OF PERSONS WHO OFFER OR TRANSPORT HAZARDOUS MATERIALS

Section 107.601 Incorporation by Reference of 49 CFR 107, Subpart G

- a) 49 CFR 107, Subpart G is hereby incorporated by reference as that Subpart of the Hazardous Materials Transportation Regulations was in effect on October 1, 1996 1994, as amended-at-60-PR-272317-May-237 1995. No later amendments to or editions of 49 CFR 107, Subpart G are incorporated.
- b) The following interpretations of, additions to and deletions from 49 CFR 107, Subpart G shall apply for the purposes of this Subpart.
 - 1) Any reference to "this part" in the incorporated material shall mean 92 Ill. Adm. Code 107.
 - 2) Any reference to "this Chapter" or "this Subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.
 - 3) Any reference to a section in the incorporated material shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Rulemaking Procedures
- 2) Code Citation: 92 Ill. Adm. Code 102
- 3) Section Numbers:
- | | |
|-------|------------------------|
| 102.5 | <u>Proposed Action</u> |
| 102.7 | Amend |
| 102.9 | Amend |
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act (430 ILCS 30/4(a) and 9(a))
- 5) A complete description of the subjects and issues involved: By this Notice of Proposed Amendments, the Department is updating the address for the Department's Division of Traffic Safety. The Department is also updating the statutory citations.
- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
217/785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

Commercial Vehicle Safety; 3rd Floor
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 300
Springfield, IL 62764
217/782-3215

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses affected: This rulemaking affects small businesses which transport placarded hazardous materials.

B) Reporting, bookkeeping or other procedures required for compliance:
No additional requirements are necessary for compliance.

C) Types of professional skills necessary for compliance: No additional skills are necessary for compliance.

13) Regulatory Agenda on which this rulemaking was included: This rule was not included on either of the 2 most recent regulatory agendas: Department personnel inadvertently failed to discuss and include this rulemaking.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF TRANSPORTATION
NOTICE OF PROPOSED AMENDMENTS
TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 102
RULEMAKING PROCEDURES
SUBPART A: GENERAL

- Section
102.1 Scope
102.3 Definitions
102.5 Regulatory dockets
102.7 Records
102.9 Where to file petitions

SUBPART B: PROCEDURES FOR ADOPTION OF RULES

- Section
102.11 General
102.31 Petitions for rulemaking

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/40(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; amended at 6 Ill. Reg. 4287, effective April 16, 1982; codified at 8 Ill. Reg. 17978; amended at 22 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 102.5 Regulatory Dockets

- a) Information and data relating to rulemaking actions, including notices of proposed rulemaking, comments received in response to notices, records of additional rulemaking proceedings, and final regulations are maintained by the Division of Traffic Safety, Illinois Department of Transportation, 3215 Executive Park Drive, P.O. Box 19212, Springfield, Illinois 62794-9212. 2309--South--Birksen--Parkway7 Springfield, Illinois 62764-
- b) Any person may examine and copy any docketed material at the offices of the Division of Traffic Safety during regular business hours after the docket is established, except material which the Director determines should be withheld from public disclosure under applicable provisions of any statute administered by the Director or which are deemed confidential by State or Federal Statute or which the Director determines to constitute trade secrets.

DEPARTMENT OF TRANSPORTATION
NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 102.7 Records

Records of the Division of Traffic Safety relating to rulemaking proceedings are available for inspection as provided in Section 5-10(a)(ii) of the Illinois Administrative Procedure Act [5 ILCS 100/5-10(a)(ii)] (Ill. Rev. Stat. 1991 ch. 127, par. 1805-1947). 2309--South--Birksen--Parkway7 Springfield, Illinois 62764-

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 102.9 Where to File Petitions

Any petition filed by any person relating to any proposed or existing regulation concerning the transportation of hazardous materials must be submitted to: Director, Division of Traffic Safety, Illinois Department of Transportation, 3215 Executive Park Drive, P.O. Box 19212, Springfield, Illinois 62794-9212. 2309--South--Birksen--Parkway7 Springfield, Illinois 62764-

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Shippers General Requirements for Shipments and Packagings

2) Code Citation: 92 Ill. Adm. Code 173

3) Section Numbers: 173.3000
Proposed Action: Amend

4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)]

5) A complete description of the subjects and issues involved: By this Notice of Proposed Amendments, the Department is updating the date of incorporation by reference of 49 CFR 173, as of October 1, 1996, and including the federal rulemakings adopted at 61 FR 68952, December 30, 1996; 62 FR 1208, January 8, 1997; 62 FR 1217, January 8, 1997; 62 FR 14334, March 26, 1997; 62 FR 24690, May 6, 1997; 62 FR 45702, August 28, 1997; 62 FR 49560, September 22, 1997; and 62 FR 51554, October 1, 1997.

The Department's regulations will incorporate changes made in the following Dockets:

Docket HM-224 (61 FR 68952, December 30, 1996) Prohibits the transportation of oxygen generators as cargo on board passenger-carrying aircraft.

Docket HM-200 (62 FR 1208, January 8, 1997) Requires that all intrastate shippers and carriers comply with the Hazardous Materials Regulations with certain exceptions. The intended effect of this rule is to raise the level of safety in the transportation of hazardous materials.

Docket HM-206 (62 FR 1217, January 8, 1997) Amends the Hazardous Materials Regulations to better identify hazardous materials in transportation. Changes include adding a new "POISON INHALATION HAZARD" label and placard to enhance the identification of materials which are poisonous if inhaled, lowering the quantity for specific hazard class placarding and other enhancements to the hazard communication system. Improved identification of hazardous materials in transportation assists emergency response personnel in responding to incidents involving hazardous materials.

Docket HM-181H (62 FR 14334, March 26, 1997) Corrects errors in the September 26, 1996 final rule and responds to petitions for reconsideration.

Docket HM-215B (62 FR 24690, May 6, 1997) Amends the Hazardous Materials Regulations to maintain alignment with corresponding provisions of international standards. These revisions are necessary to facilitate the

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

transport of hazardous materials in international commerce.

Docket HM-215-B (62 FR 45702, August 28, 1997) Makes corrections to final rule of May 6, 1997.

Docket HM-200 (62 FR 49560, September 22, 1997) Makes changes and corrects errors in the final rule published on January 8, 1997. Changes include postponement until October 1, 1998 for the effective date of the January 8, 1997 final rule.

Docket HM-189-N (62 FR 51554, October 1, 1997) Corrects editorial errors, and makes minor regulatory changes. The intended effect of this rule is to enhance the accuracy and reduce misunderstanding of the HMR.

Section 173.3000(b)(6) is being deleted. The marking requirements referenced in this subsection are no longer found in 49 CFR 173.24(c)(3). A new subsection (b)(6) will replace the existing language although the new language is not new to the Part, it is simply being relocated from current subsection (b)(10).

Section 173.3000(b)(7) will be deleted and a new subsection (b)(7) will replace it to allow for the limited exception for the use of permanently secured non-bulk tanks for petroleum products which conform to the requirements of the state where it is being operated and is specifically authorized by the state statute or regulation in effect before October 1, 1998. This change is made pursuant to 62 FR 1208, January 8, 1997.

Sections 173.3000(b)(8) and (9) are being removed. These two subsections prohibit a non-specification cargo tank used for the transportation of liquefied petroleum gas from operation in Illinois. However, these cargo tanks can now be used in Illinois if operated under the conditions of an IDOT exemption.

The provisions in Section 173.3000(b)(10) are being moved and renumbered to subsection (b)(6).

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes. These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not affect

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
217/785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety; 3rd Floor
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 300
Springfield, IL 62764
217/782-3215

Comments received within 45 days after the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

- 12) Initial Regulatory Flexibility Analysis:

- A) Type of small businesses affected: This rulemaking affects small businesses which transport placarded hazardous materials.
- B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements are necessary for compliance.
- C) Types of professional skills necessary for compliance: No additional skills are necessary for compliance.

- 13) Regulatory Agenda on which this rulemaking was included: July 1997

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 173

SHIPPERS GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

Section

173.2000 General

173.3000 Incorporation by Reference of 49 CFR 173

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act (430 ILCS 30/4(a) and 9(a)).

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; amended at 4 Ill. Reg. 30, p. 1244, effective July 10, 1980; amended at 5 Ill. Reg. 1715, effective February 9, 1981; amended at 6 Ill. Reg. 4287, effective April 16, 1982; amended at 6 Ill. Reg. 10036, effective August 2, 1982; amended at 7 Ill. Reg. 3486, effective April 12, 1983; codified at 8 Ill. Reg. 20015; Part repealed, new Part adopted at 10 Ill. Reg. 5886, effective April 1, 1986; amended at 10 Ill. Reg. 20764, effective December 1, 1986; amended at 11 Ill. Reg. 4781, effective March 10, 1987; amended at 11 Ill. Reg. 17898, effective October 20, 1987; amended at 12 Ill. Reg. 8089, effective April 26, 1988; amended at 13 Ill. Reg. 3998, effective March 14, 1989; amended at 14 Ill. Reg. 2651, effective February 1, 1990; amended at 15 Ill. Reg. 7765, effective May 7, 1991; amended at 16 Ill. Reg. 11856, effective July 13, 1992; amended at 18 Ill. Reg. 7895, effective May 6, 1994; amended at 20 Ill. Reg. 6560, effective April 30, 1996; amended at 22 Ill. Reg. _____, effective _____.

Section 173.3000 Incorporation by Reference of 49 CFR 173

- a) As Part 173 of the Illinois Hazardous Materials Transportation Regulations the Department incorporates 49 CFR 173 by reference, as that Part of the federal hazardous materials transportation regulations was in effect on October 1, 1996 19947-as-amended-at-59-PR 551627-November-37-1994-as-amended-at-59-PR-673907-December-29-19947-as-amended-at-60-PR-76277-February-07-19957-as-amended-at-60-PR-173987-April-11-19957-as-amended-at-60-PR-267967-May-18-19957-as-amended-at-60-PR-400397-August-47-19957-as-amended-at-60-PR-487807-September-207-19957-as-amended-at-60-PR-490487-September-217-19957-as-amended-at-60-PR-491067-September-217-19957-as-amended-at-60-PR-503927-September-287-19957-as-amended at 61 FR 68952, December 30, 1996; as amended at 62 FR 1208, January 8, 1997; as amended at 62 FR 1217, January 8, 1997; as amended at 62 FR 14334, March 26, 1997; as amended at 62 FR 24690, May 6, 1997; as amended at 62 FR 45702, August 28, 1997; as amended at 62 FR 49560, September 22, 1997; and as amended at 62 FR 51554, October 1, 1997,

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NOTICE OF PROPOSED AMENDMENTS

subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of 49 CFR 173 are incorporated.

- b) The following interpretations of, additions to and deletions from 49 CFR 173 shall apply for purposes of this Part.

- 1) All references to "this part" in the incorporated federal regulations shall mean Part 173 of the Illinois Hazardous Materials Transportation Regulations.
- 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.
- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
- 4) All references to Parts 174, 175 or 176 or to sections therein shall be read to refer to those Parts or sections in the federal hazardous materials transportation regulations.
- 5) All references to shipment of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.
- 5) Any changes to 49 CFR 173 made effective by U.S. DOT rulemaking Docket HM-187 (49 FR 21933 (May 24, 1984)) covering small arms ammunition are not incorporated.
- 6) ~~Section 173.24(c)(3) is added to the Illinois Hazardous Materials Transportation Regulations and reads as follows:~~
~~the markings in this Section are not required for a surface moisture/density gauge transported as Radioactive Materials Special Form N-0-S-7 when accompanied by a shipping paper which contains for is accompanied by a signed statement or certification from the manufacturer of the gauge attesting that the gauge construction complies with all package specifications set forth in Sections 173.415 and 173.417 except those that pertain to marking.~~
 7) 49 CFR 173.8(d)(3) is not incorporated by reference and is replaced by the following:
 A non-specification metal tank having a capacity of less than 450 liters (119 gallons) may be used for transportation of flammable liquid petroleum products subject to the following conditions:
 A) Containers shall be tanks constructed of 18 gauge or heavier steel or equivalent gauge aluminum.
 B) Tanks shall be securely fastened to prevent separation from the vehicle.
 C) Tanks shall be electrically bonded to the frame of the vehicle.
 D) Tanks shall be protected against leakage or damage in the event of a turnover.
 E) Tanks may not be drained by gravity. Top mounted pumps must

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be designed and labeled for use with flammable and combustible liquids. No top mounted pump shall be higher than the highest point of the vehicle or permanently attached appurtenances (i.e., roll bars).

F) Flammable liquid petroleum products being transported on a single vehicle may not exceed 450 liters (119 gallons).

G) Flammable liquid petroleum product is offered for transportation and transported in conformance with all other applicable requirements of this Subchapter.

77 Section--173-150(g)--is added-to-the-Hill-of-Haradon-Materials-Transportation-Regulation-and-Trade-Associations.

Gasoline being transported in a packing having a rated capacity of 116 liters for quantities of less than 100 liters in compliance with the rules of the Office of the State Fire Marshal; 41 1/2 U. S. Gallons for quantities of 100 to 250 U. S. Gallons; 170 U. S. Gallons for quantities of 250 to 500 U. S. Gallons; 340 U. S. Gallons for quantities of 500 to 1000 U. S. Gallons; 680 U. S. Gallons for quantities of 1000 to 2000 U. S. Gallons; 1360 U. S. Gallons for quantities of 2000 to 4000 U. S. Gallons; 2720 U. S. Gallons for quantities of 4000 to 8000 U. S. Gallons; 5440 U. S. Gallons for quantities of 8000 to 16000 U. S. Gallons; 10880 U. S. Gallons for quantities of 16000 to 32000 U. S. Gallons; 21760 U. S. Gallons for quantities of 32000 to 64000 U. S. Gallons; 43520 U. S. Gallons for quantities of 64000 to 128000 U. S. Gallons; 87040 U. S. Gallons for quantities of 128000 to 256000 U. S. Gallons; 174080 U. S. Gallons for quantities of 256000 to 512000 U. S. Gallons; 348160 U. S. Gallons for quantities of 512000 to 1024000 U. S. Gallons; 696320 U. S. Gallons for quantities of 1024000 to 2048000 U. S. Gallons; 1392640 U. S. Gallons for quantities of 2048000 to 4096000 U. S. Gallons; 2785280 U. S. Gallons for quantities of 4096000 to 8192000 U. S. Gallons; 5570560 U. S. Gallons for quantities of 8192000 to 16384000 U. S. Gallons; 11141120 U. S. Gallons for quantities of 16384000 to 32768000 U. S. Gallons; 22282240 U. S. Gallons for quantities of 32768000 to 65536000 U. S. Gallons; 44564480 U. S. Gallons for quantities of 65536000 to 131072000 U. S. Gallons; 89128960 U. S. Gallons for quantities of 131072000 to 262144000 U. S. Gallons; 178257920 U. S. Gallons for quantities of 262144000 to 524288000 U. S. Gallons; 356515840 U. S. Gallons for quantities of 524288000 to 1048576000 U. S. Gallons; 713031680 U. S. Gallons for quantities of 1048576000 to 2097152000 U. S. Gallons; 1426063360 U. S. Gallons for quantities of 2097152000 to 4194304000 U. S. Gallons; 2852126720 U. S. Gallons for quantities of 4194304000 to 8388608000 U. S. Gallons; 5704253440 U. S. Gallons for quantities of 8388608000 to 16777216000 U. S. Gallons; 11408506880 U. S. Gallons for quantities of 16777216000 to 33554432000 U. S. Gallons; 22817013760 U. S. Gallons for quantities of 33554432000 to 67108864000 U. S. Gallons; 45634027520 U. S. Gallons for quantities of 67108864000 to 134217728000 U. S. Gallons; 91268055040 U. S. Gallons for quantities of 134217728000 to 268435456000 U. S. Gallons; 182536110080 U. S. Gallons for quantities of 268435456000 to 536870912000 U. S. Gallons; 365072220160 U. S. Gallons for quantities of 536870912000 to 1073741824000 U. S. Gallons; 730144440320 U. S. Gallons for quantities of 1073741824000 to 2147483648000 U. S. Gallons; 1460288880640 U. S. Gallons for quantities of 2147483648000 to 4294967296000 U. S. Gallons; 2920577761280 U. S. Gallons for quantities of 4294967296000 to 8589934592000 U. S. Gallons; 5841155522560 U. S. Gallons for quantities of 8589934592000 to 17179869184000 U. S. Gallons; 11682311045120 U. S. Gallons for quantities of 17179869184000 to 34359738368000 U. S. Gallons; 23364622090240 U. S. Gallons for quantities of 34359738368000 to 68719476736000 U. S. Gallons; 46729244180480 U. S. Gallons for quantities of 68719476736000 to 137438953472000 U. S. Gallons; 93458488360960 U. S. Gallons for quantities of 137438953472000 to 274877906944000 U. S. Gallons; 186916976721920 U. S. Gallons for quantities of 274877906944000 to 549755813888000 U. S. Gallons; 373833953443840 U. S. Gallons for quantities of 549755813888000 to 1099511627776000 U. S. Gallons; 747667906887680 U. S. Gallons for quantities of 1099511627776000 to 2199023255552000 U. S. Gallons; 1495335813775360 U. S. Gallons for quantities of 2199023255552000 to 4398046511104000 U. S. Gallons; 2990671627550720 U. S. Gallons for quantities of 4398046511104000 to 8796093022208000 U. S. Gallons; 5981343255101440 U. S. Gallons for quantities of 8796093022208000 to 17592186044416000 U. S. Gallons; 11962686510202880 U. S. Gallons for quantities of 17592186044416000 to 35184372088832000 U. S. Gallons; 23925373020405760 U. S. Gallons for quantities of 35184372088832000 to 70368744177664000 U. S. Gallons; 47850746040811520 U. S. Gallons for quantities of 70368744177664000 to 140737488355328000 U. S. Gallons; 95701492081623040 U. S. Gallons for quantities of 140737488355328000 to 281474976710656000 U. S. Gallons; 191402984163246080 U. S. Gallons for quantities of 281474976710656000 to 562949953421312000 U. S. Gallons; 382805968326492160 U. S. Gallons for quantities of 562949953421312000 to 1125899906842624000 U. S. Gallons; 765611936652984320 U. S. Gallons for quantities of 1125899906842624000 to 2251799813685248000 U. S. Gallons; 1531223873305968640 U. S. Gallons for quantities of 2251799813685248000 to 4503599627370496000 U. S. Gallons; 3062447746611937280 U. S. Gallons for quantities of 4503599627370496000 to 9007199254740992000 U. S. Gallons; 6124895493223874560 U. S. Gallons for quantities of 9007199254740992000 to 18014398509481984000 U. S. Gallons; 12249790986447749120 U. S. Gallons for quantities of 18014398509481984000 to 36028797018963968000 U. S. Gallons; 24499581972895498240 U. S. Gallons for quantities of 36028797018963968000 to 72057594037927936000 U. S. Gallons; 48999163945790996480 U. S. Gallons for quantities of 72057594037927936000 to 144115188075855872000 U. S. Gallons; 97998327891581992960 U. S. Gallons for quantities of 144115188075855872000 to 288230376151711744000 U. S. Gallons; 195996655783163985920 U. S. Gallons for quantities of 288230376151711744000 to 576460752303423488000 U. S. Gallons; 391993311566327971840 U. S. Gallons for quantities of 576460752303423488000 to 1152921504606846976000 U. S. Gallons; 783986623132655943680 U. S. Gallons for quantities of 1152921504606846976000 to 2305843009213693952000 U. S. Gallons; 1567973246265311887360 U. S. Gallons for quantities of 2305843009213693952000 to 4611686018427387904000 U. S. Gallons; 3135946492530623774720 U. S. Gallons for quantities of 4611686018427387904000 to 9223372036854775808000 U. S. Gallons; 6271892985061247549440 U. S. Gallons for quantities of 9223372036854775808000 to 18446744073709551616000 U. S. Gallons; 12543785970122495098880 U. S. Gallons for quantities of 18446744073709551616000 to 36893488147419103232000 U. S. Gallons; 25087571940244990197760 U. S. Gallons for quantities of 36893488147419103232000 to 73786976294838206464000 U. S. Gallons; 5

[illegible][illegible]

97 Section 173-3545(4) in 49-PR-173 is deleted and not incorporated.
100 Any changes to 49-PR-173 made effective by 15S-1889 implementing
101 Public Law 102-149 (PR 2003-5 May 14, 1984) covering amendments
102 to 49-PR-173 are not incorporated.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Specifications for Packagings

2) Code Citation: 92 Ill. Adm. Code 178

3) Section Numbers:
178.2000

4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)]

5) A complete description of the subjects and issues involved: By this Notice of Proposed Amendments, the Department is updating the date of incorporation by reference of 49 CFR 178, as of October 1, 1996, and including the federal rulemakings adopted at 62 FR 14334, March 26, 1997; 62 FR 24690, May 6, 1997; and 62 FR 51554, October 1, 1997.

The Department's regulations will incorporate changes made in the following Dockets:

Docket HM-181H (62 FR 14334, March 26, 1997) Corrects errors in the September 26, 1996 final rule and responds to petitions for reconsideration.

Docket HM-215B (62 FR 24690, May 6, 1997) Amends the Hazardous Materials Regulations to maintain alignment with corresponding provisions of international standards. These revisions are necessary to facilitate the transport of hazardous materials in international commerce.

Docket HM-189-N (62 FR 51554, October 1, 1997) Corrects editorial errors, and makes minor regulatory changes. The intended effect of this rule is to enhance the accuracy and reduce misunderstanding of the HMR.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

3) Does this proposed amendment contain incorporations by reference? Yes, these conform to Section 5-75(a) of the Illinois Administrative Procedure Act.

29) Are there any other amendments pending on this Part? No

10.0) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217)785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety; 3rd Floor
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 300
Springfield, IL 62764
(217)782-3215

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

- A) Type of small businesses affected: This rulemaking affects small businesses which transport placarded hazardous materials.
- B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements are necessary for compliance.
- C) Types of professional skills necessary for compliance: No additional skills are necessary for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the Proposed Amendment begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 178

SPECIFICATIONS FOR PACKAGINGS

Specification MC 300; Cargo Tanks Constructed of Mild (Open Hearth or Blue Annealed) Steel, or Combination of Mild Steel with High Tensile Steel, or Stainless Steel, Primarily For the Transportation of Flammable Liquids or Poisonous Liquids, Class B

178.321-0.1	[178.321-1] General Requirements
178.321-0.2	[178.321-2] Material
178.321-0.3	[178.321-3] Thickness
178.321-0.4	[178.321-4] Joints
178.321-0.5	[178.321-5] Bulkheads, Baffles, and Ring Stiffeners
178.321-0.6	[178.321-6] Closures for Manholes
178.321-0.7	[178.321-7] Overturn Protection
178.321-0.8	[178.321-8] Outlets
178.321-0.9	[178.321-9] Vents, Valves, and Connections
178.321-1.0	[178.321-10] Protection of Fittings
178.321-1.1	[178.321-11] Emergency Discharge Control
178.321-1.2	[178.321-12] Shear Section
178.321-1.3	[178.321-13] Anchoring of Tank
178.321-1.4	[178.321-14] Gauging Devices
178.321-1.5	[178.321-15] Pumps
178.321-1.6	[178.321-16] Testing Requirements
178.321-1.7	[178.321-17] Marking of Cargo Tanks
178.321-1.8	[178.321-18] Certification
178.322	Specification MC 301; Cargo Tanks Constructed of Welded Aluminum Alloy (Grade 3S), To Be Mounted On and To Form Part Of Tank Motor Vehicles for Transportation of Flammable Liquids, and Poisonous Liquids, Class B

178.322-0.1	[178.322-1] General Requirements
178.322-0.3	[178.322-3] Certification
178.322-0.5	[178.322-5] Marking of Cargo Tanks
178.322-0.9	[178.322-9] Testing Requirements
178.322-1.1	[178.322-11] Material
178.322-1.2	[178.322-12] Thickness of Sheets and Ring Stiffeners
178.322-1.3	[178.322-13] Tolerance
178.322-1.4	[178.322-14] Joints
178.322-1.7	[178.322-17] Tank Outlets
178.322-1.8	[178.322-18] Bulkheads, Baffles, and Ring Stiffeners
178.322-1.9	[178.322-19] Tank Vents
178.322-2.0	[178.322-20] Valve and Faucet Connections
178.322-2.1	[178.322-21] Emergency Discharge Control
178.322-2.2	[178.322-22] Shear Section
178.322-2.3	[178.322-23] Protection of Valves and Faucets

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- 178.322.2.4 (178.322-24) Overturb Protection
- 178.323 Specification MC 302; Cargo Tanks Constructed of Welded Aluminum Alloy (ASTM B209-57T), Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B
- 178.323.0.1 [178.323-1] General Requirements
- 178.323.0.2 [178.323-2] Material
- 178.323.0.3 [178.323-3] Thickness of Metal
- 178.323.0.4 [178.323-4] Joints
- 178.323.0.5 [178.323-5] Bulkheads, Baffles, and Ring Stiffeners
- 178.323.0.6 [178.323-6] Closures for Manholes
- 178.323.0.7 [178.323-7] Overturb Protection
- 178.323.0.8 [178.323-8] Tank Outlets
- 178.323.0.9 [178.323-9] Vents, Valves, and Connections
- 178.323.1.0 [178.323-10] Protection of Fittings
- 178.323.1.1 [178.323-11] Emergency Discharge Control
- 178.323.1.2 [178.323-12] Shear Section
- 178.323.1.3 [178.323-13] Anchoring of Tank
- 178.323.1.4 [178.323-14] Gauging Devices
- 178.323.1.5 [178.323-15] Pumps
- 178.323.1.6 [178.323-16] Testing Requirements
- 178.323.1.7 [178.323-17] Marking of Cargo Tanks
- 178.323.1.8 [178.323-18] Certification
- 178.324 Specification MC 303; Cargo Tanks Constructed of Welded Ferrous Alloy (High-Tensile Steel), or Stainless Steel, Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B
- 178.324.0.1 [178.324-1] General Requirements
- 178.324.0.2 [178.324-2] Material
- 178.324.0.3 [178.324-3] Thickness of Metal
- 178.324.0.4 [178.324-4] Joints
- 178.324.0.5 [178.324-5] Bulkheads, Baffles, and Ring Stiffeners
- 178.324.0.6 [178.324-6] Closures for Manholes
- 178.324.0.7 [178.324-7] Overturb Protection
- 178.324.0.8 [178.324-8] Outlets
- 178.324.0.9 [178.324-9] Vents, Valves, and Connections
- 178.324.1.0 [178.324-10] Protection of Fittings
- 178.324.1.1 [178.324-11] Emergency Discharge Control
- 178.324.1.2 [178.324-12] Shear Section
- 178.324.1.3 [178.324-13] Anchoring of Tank
- 178.324.1.4 [178.324-14] Gauging Devices
- 178.324.1.5 [178.324-15] Pumps
- 178.324.1.6 [178.324-16] Testing Requirements
- 178.324.1.7 [178.324-17] Marking of Cargo Tanks
- 178.324.1.8 [178.324-18] Certification
- 178.325 Specification MC 304; Cargo Tanks Constructed of Mild (Open Hearth or Blue Annealed) Steel, Welded Ferrous Alloy (High-Tensile) Steel, or Aluminum, Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class

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- B, Having Reid (ASTM D-323) Vapor Pressures of 18 PSIA or More at 100° F., But Less Than Those Stated in 92 Ill. Adm. Code 173.300, In Defining Compressed Gases
- 178.325-1 [178.325-1] General Requirements
- 178.325.0.1 [178.325-2] Material
- 178.325.0.2 [178.325-3] Thickness of Metal
- 178.325.0.3 [178.325-4] Joints
- 178.325.0.4 [178.325-5] Bulkheads, Baffles, and Ring Stiffeners
- 178.325.0.5 [178.325-6] Closures for Manholes
- 178.325.0.6 [178.325-7] Overturb Protection
- 178.325.0.7 [178.325-8] Tank Outlets
- 178.325.0.8 [178.325-9] Safety Relief Devices, Valves, and Connections
- 178.325.0.9 [178.325-10] Protection of Fittings
- 178.325.1.0 [178.325-11] Emergency Discharge Control
- 178.325.1.1 [178.325-12] Shear Section
- 178.325.1.2 [178.325-13] Anchoring of Cargo Tank
- 178.325.1.3 [178.325-14] Gauging Devices
- 178.325.1.4 [178.325-15] Pumps
- 178.325.1.5 [178.325-16] Testing Requirements
- 178.325.1.6 [178.325-17] Marking of Cargo Tanks
- 178.325.1.7 [178.325-18] Certification
- 178.325.1.8 [178.325-18] Certification
- 178.326 Specification MC 305; Cargo Tanks Constructed of Aluminum Alloys for High-Strength Welded Construction, Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B
- 178.326.0.1 [178.326-1] General Requirements
- 178.326.0.2 [178.326-2] Material
- 178.326.0.3 [178.326-3] Thickness of Sheets
- 178.326.0.4 [178.326-4] Joints
- 178.326.0.5 [178.326-5] Bulkheads, Baffles, and Ring Stiffeners
- 178.326.0.6 [178.326-6] Closures for Manholes
- 178.326.0.7 [178.326-7] Overturb Protection
- 178.326.0.8 [178.326-8] Tank Outlets
- 178.326.0.9 [178.326-9] Vents, Valves, and Connections
- 178.326.1.0 [178.326-10] Protection of Fittings
- 178.326.1.1 [178.326-11] Emergency Discharge Control
- 178.326.1.2 [178.326-12] Shear Section
- 178.326.1.3 [178.326-13] Anchoring of Cargo Tank
- 178.326.1.4 [178.326-14] Gauging Devices
- 178.326.1.5 [178.326-15] Pumps
- 178.326.1.6 [178.326-16] Testing Requirements
- 178.326.1.7 [178.326-17] Marking of Cargo Tanks
- 178.326.1.8 [178.326-18] Certification
- 178.330 Specification MC 310; Cargo Tanks Constructed of Ferrous Materials, Primarily For the Transportation of Corrosive Liquids
- 178.330.0.1 [178.330-1] General Requirements
- 178.330.0.2 [178.330-2] Material
- 178.330.0.3 [178.330-3] Thickness of Metal

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178.330.0.4 [178.330-4] Joints
 178.330.0.5 [178.330-5] Bulkheads, Baffles, Ring Stiffeners, Tank Supports, and Compartmentation
 178.330.0.6 [178.330-6] Closures for Manholes
 178.330.0.7 [178.330-7] Overturn Protection
 178.330.0.8 [178.330-8] Outlets
 178.330.0.9 [178.330-9] Vents, Valves, and Connections
 178.330.1.0 [178.330-10] Protection of Fittings
 178.330.1.1 [178.330-11] Emergency Discharge Control
 178.330.1.2 [178.330-12] Shear Section
 178.330.1.3 [178.330-13] Anchoring of Tank
 178.330.1.4 [178.330-14] Gauging Devices
 178.330.1.5 [178.330-15] Pumps and Compressors
 178.330.1.6 [178.330-16] Testing Requirements
 178.330.1.7 [178.330-17] Marking of Cargo Tanks
 178.330.1.8 [178.330-18] Certification
 178.331 Specification MC 311; Cargo Tanks Constructed of Ferrous Metals or Aluminum, Primarily For the Transportation of Corrosive Liquids
 178.331.0.1 [178.331-1] General Requirements
 178.331.0.2 [178.331-2] Material
 178.331.0.3 [178.331-3] Thickness of Metal
 178.331.0.4 [178.331-4] Joints
 178.331.0.5 [178.331-5] Bulkheads, Baffles, Ring Stiffeners, Tank Supports, and Compartmentation
 178.331.0.6 [178.331-6] Closures for Manholes
 178.331.0.7 [178.331-7] Overturn Protection
 178.331.0.8 [178.331-8] Outlets
 178.331.0.9 [178.331-9] Vents, Valves, and Connections
 178.331.1.0 [178.331-10] Protection of Fittings
 178.331.1.1 [178.331-11] Emergency Discharge Control
 178.331.1.2 [178.331-12] Shear Section
 178.331.1.3 [178.331-13] Anchoring of Tank
 178.331.1.4 [178.331-14] Gauging Devices
 178.331.1.5 [178.331-15] Pumps and Compressors
 178.331.1.6 [178.331-16] Testing Requirements
 178.331.1.7 [178.331-17] Marking of Cargo Tanks
 178.331.1.8 [178.331-18] Certification
 178.336 Specification MC 330; Cargo Tanks Constructed of Steel, Primarily For Transportation of Compressed Gases
 178.336.0.1 [178.336-1] General Requirements
 178.336.0.2 [178.336-2] Material
 178.336.0.3 [178.336-3] Thickness of Metal
 178.336.0.4 [178.336-4] Joints
 178.336.0.5 [178.336-5] Bulkheads, Baffles, and Ring Stiffeners
 178.336.0.6 [178.336-6] Closures for Manholes
 178.336.0.7 [178.336-7] Overturn Protection
 178.336.0.8 [178.336-8] Outlets

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178.336.0.9 [178.336-9] Safety Relief Devices, Valves, and Connections
 178.336.1.0 [178.336-10] Protection of Fittings
 178.336.1.1 [178.336-11] Emergency Discharge Control
 178.336.1.2 [178.336-12] Shear Section
 178.336.1.3 [178.336-13] Anchoring of Cargo Tank
 178.336.1.4 [178.336-14] Gauging Devices
 178.336.1.5 [178.336-15] Pumps and Compressors
 178.336.1.6 [178.336-16] Testing Requirements
 178.336.1.7 [178.336-17] Marking of Cargo Tanks
 178.336.1.8 [178.336-18] Certification
 178.337 Specification MC 331; Cargo Tanks Constructed of Steel, Primarily For Transportation of Compressed Gases, As Defined in the Compressed Gas Section (Repealed)
 178.337.0.1 [178.337-1] General Requirements (Repealed)
 178.337.0.2 [178.337-2] Material (Repealed)
 178.337.0.3 [178.337-3] Thickness of Tank Metal (Repealed)
 178.337.0.4 [178.337-4] Joints (Repealed)
 178.337.0.5 [178.337-5] Bulkheads, Baffles, and Ring Stiffeners (Repealed)
 178.337.0.6 [178.337-6] Closure for Manhole (Repealed)
 178.337.0.7 [178.337-7] Overturn Protection (Repealed)
 178.337.0.8 [178.337-8] Outlets (Repealed)
 178.337.0.9 [178.337-9] Safety Relief Devices, Valves, and Connections (Repealed)
 178.337.1.0 [178.337-10] Protection of Fittings (Repealed)
 178.337.1.1 [178.337-11] Emergency Discharge Control (Repealed)
 178.337.1.2 [178.337-12] Shear Section (Repealed)
 178.337.1.3 [178.337-13] Supporting and Anchoring (Repealed)
 178.337.1.4 [178.337-14] Gauging Devices (Repealed)
 178.337.1.5 [178.337-15] Pumps and Compressors (Repealed)
 178.337.1.6 [178.337-16] Testing (Repealed)
 178.337.1.7 [178.337-17] Marking (Repealed)
 178.337.1.8 [178.337-18] Certification (Repealed)
 178.340 General Design and Construction Requirements Applicable to Specifications MC 306 (Section 178.341), MC 307 (Section 178.342), and MC 312 (Section 178.343) Cargo Tanks (Repealed)
 178.340.0.1 [178.340-1] Specification Requirements For MC 306, MC 307, and MC 312 Cargo Tanks (Repealed)
 178.340.0.2 [178.340-2] General Requirements (Repealed)
 178.340.0.3 [178.340-3] Material (Repealed)
 178.340.0.4 [178.340-4] Structural Integrity (Repealed)
 178.340.0.5 [178.340-5] Joints (Repealed)
 178.340.0.6 [178.340-6] Supports and Anchoring (Repealed)
 178.340.0.7 [178.340-7] Circumferential Reinforcements (Repealed)
 178.340.0.8 [178.340-8] Accident Damage Protection (Repealed)
 178.340.0.9 [178.340-9] Pumps (Repealed)
 178.340.1.0 [178.340-10] Certification (Repealed)
 178.341 Specification MC 306; Cargo Tanks (Repealed)
 178.341.0.1 [178.341-1] General Requirements (Repealed)

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- 178.341.0.2 Thickness of Shells, Heads, Bulkheads, and Baffles (Repealed)
- 178.341.0.3 Closures for Fill Openings and Manholes (Repealed)
- 178.341.0.4 Vents (Repealed)
- 178.341.0.5 Emergency Flow Control (Repealed)
- 178.341.0.6 Gauging Devices (Repealed)
- 178.341.0.7 Method of Test (Repealed)
- 178.342 Specification MC 307; Cargo Tanks (Repealed)
- 178.342.0.1 General Requirements (Repealed)
- 178.342.0.2 Thickness of Shell, Heads, Bulkheads, and Baffles (Repealed)
- 178.342.0.3 Closures for Manholes (Repealed)
- 178.342.0.4 Vents (Repealed)
- 178.342.0.5 Outlets (Repealed)
- 178.342.0.6 Gauging Devices (Repealed)
- 178.342.0.7 Method of Test (Repealed)
- 178.343 Specification MC 312; Cargo Tanks (Repealed)
- 178.343.0.1 General Requirements (Repealed)
- 178.343.0.2 Thickness of Shell, Heads, Bulkheads, and Baffles of Non-Asme Code Tanks (Repealed)
- 178.343.0.3 Closures for Manholes (Repealed)
- 178.343.0.4 Vents (Repealed)
- 178.343.0.5 Outlets (Repealed)
- 178.343.0.6 Gauging Devices (Repealed)
- 178.343.0.7 Method of Test (Repealed)
- 178.350 Specification 7A; General Packaging, Type A (Repealed)
- 178.350.0.1 General Requirements (Repealed)
- 178.350.0.2 Specific Requirements (Repealed)
- 178.350.0.3 Marking (Repealed)
- 178.1000 General
- 178.2000 Incorporation by Reference of 49 CFR 178

APPENDIX C

Tensile Specimen

APPENDIX D

Material Thickness (Repealed)

TABLE A Minimum Thickness of Heads, Bulkheads, and Baffles (Repealed)

TABLE B Minimum Thickness of Shell Sheets (Repealed)

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; amended at 5 Ill. Reg. 1715, effective February 9, 1981; amended at 6 Ill. Reg. 10036, effective August 2, 1982; amended at 8 Ill. Reg. 19640, effective October 1, 1984; codified at 8 Ill. Reg. 20047; amended at 8 Ill. Reg. 20064, effective October 1, 1984; amended at 10 Ill. Reg. 5897, effective April 1, 1986; amended at 10 Ill. Reg. 20770, effective December 1, 1986; amended at 11 Ill. Reg. 4786, effective March 10, 1987; amended at 11 Ill. Reg. 17904, effective October 20, 1987; amended at 12 Ill. Reg. 8093, effective April 26, 1988;

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amended at 13 Ill. Reg. 4004, effective March 14, 1989; amended at 14 Ill. Reg. 2640, effective February 1, 1990; amended at 15 Ill. Reg. 7771, effective May 7, 1991; amended at 16 Ill. Reg. 11863, effective July 13, 1992; amended at 18 Ill. Reg. 7901, effective May 6, 1994; amended at 20 Ill. Reg. 6566, effective April 30, 1996; amended at 22 Ill. Reg. _____, effective _____.

AGENCY NOTE: In reading this Part it is necessary to read Sections 178.1000 and 178.2000 prior to reading the remaining Sections in numerical order.

Section 178.2000 Incorporation by Reference of 49 CFR 178

- a) As Part 178 of the Illinois Hazardous Materials Transportation Regulations the Department incorporates 49 CFR 178 by reference, as that Part of the federal hazardous materials transportation regulations was in effect on October 1, 1996; as amended at 62 FR 14334, March 27, 1997; as amended at 62 FR 24690, May 6, 1997; and as amended at 62 FR 51554, October 1, 1997; 1994-as-amended-at-59-PR 55162-November-37-1994-as-amended-at-59-PR-67390-December-29-1994-as-amended-at-60-PR-17398-April-57-1995-as-amended-at-60-PR-267967-May-187-1995-as-amended-at-60-PR-400307-August-47-1995-as-amended-at-60-PR-46780-September-20-1995-as-amended-at-60-PR-491867-September-21-1995-as-amended-at-60-PR-502927-September-287-19957 subject only to the exceptions in subsection (f) of this Section. No later amendments to or editions of 49 CFR 178 are incorporated.
- b) As Section 178.340 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.340 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.
- c) As Section 178.341 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.341 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.
- d) As Section 178.342 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.342 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.
- e) As Section 178.343 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.343 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.
- f) The following interpretations of, additions to and deletions from the 49 CFR 178 shall apply for purposes of this Part.
- 1) All references to "this part" in the incorporated federal regulations shall mean Part 178 of the Illinois Hazardous Materials Transportation Regulations.
 - 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code:

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- Chapter I, Subchapter c.
- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
- 4) All references to Parts 174, 175 or 176, or to sections therein shall be read to refer to those parts or sections in the federal hazardous materials transportation regulations.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Specifications for Tank Cars
- 2) Code Citation: 92 Ill. Adm. Code 179
- 3) Section Numbers: 179.2000
Proposed Action: Amend
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)]
- 5) A complete description of the subjects and issues involved: By this Notice of Proposed Amendments, the Department is updating the date of incorporation by reference of 49 CFR 179, as of October 1, 1996, and including the federal rulemaking adopted at 62 FR 51554, October 1, 1997. The Department's regulations will incorporate changes made in the following Docket:

Docket HM-189-N (62 FR 51554, October 1, 1997) Corrects editorial errors, and makes minor regulatory changes. The intended effect of this rule is to enhance the accuracy and reduce misunderstanding of the HMR.
- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes
These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212

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Springfield, IL 62794-9212
(217) 785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety; 3rd Floor
Springfield, IL 62764

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 300
Springfield, IL 62764
(217)782-3215

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

- A) Type of small businesses affected: This rulemaking affects small businesses which transport placarded hazardous materials.
- B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements are necessary for compliance.
- C) Types of professional skills necessary for compliance: No additional skills are necessary for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER c: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 179

SPECIFICATIONS FOR TANK CARS

Section
179.1000 General
179.2000 Incorporation By Reference of 49 CFR 179

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act (430 ILCS 30/4(a) and 9(a)).

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; amended at 6 Ill. Reg. 4287, effective April 16, 1982; old rules repealed, new rules adopted and codified at 8 Ill. Reg. 19677, effective October 1, 1984; amended at 10 Ill. Reg. 5909, effective April 1, 1986; amended at 10 Ill. Reg. 20824, effective December 1, 1986; amended at 11 Ill. Reg. 4796, effective March 10, 1987; amended at 11 Ill. Reg. 17915, effective October 20, 1987; amended at 12 Ill. Reg. 8102, effective April 26, 1988; amended at 15 Ill. Reg. 7781, effective May 7, 1991; amended at 16 Ill. Reg. 11875, effective July 13, 1992; amended at 18 Ill. Reg. 7912, effective May 6, 1994; amended at 20 Ill. Reg. 6577, effective April 30, 1996; amended at 22 Ill. Reg. _____, effective _____.

Section 179.2000 Incorporation By Reference of 49 CFR 179

- a) As Part 179 of the Illinois Hazardous Materials Transportation Regulations the Department incorporates the following sections of 49 CFR 179 by reference, as those sections of the federal hazardous materials transportation regulations were in effect on October 1, 1996 ~~1994~~; as amended at 62 FR 51554, October 1, 1997, ~~as amended at 60-FR-49848--September--217--1995~~ subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of those sections of 49 CFR 179 of the federal regulations are incorporated.

General	179.1
Definitions and abbreviations	179.2
Certificate of Construction	179.5
Repairs and alterations	179.6
Quality Assurance program	179.7
Tank mounting	179.10
Welding certification	179.11
Interior heater systems	179.12
Tank-head puncture-resistance systems	179.16
Thermal protection systems	179.18

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- 179.20 Service equipment; protection systems
 179.22 Marking
 179.300 General specifications applicable to multi-unit tank car tanks designed to be removed from car structure for filling and emptying (classes DOT-106A and 110AW)
 179.301 Individual specification requirements for multi-unit tank car tanks
- b) The following interpretations of, additions to and deletions from the above incorporated sections of 49 CFR 179 shall apply for purposes of this Part:
- 1) All references to "this part" in the incorporated federal regulations shall mean Part 179 of the Illinois Hazardous Materials Transportation Regulations.
 - 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.
 - 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations except references to Section 179.3 shall mean 49 CFR 179.3.
 - 4) 49 CFR 179.2(a)(4) is deleted and replaced by the following: "'DOT' means the U.S. Department of Transportation and 'Department' means the Illinois Department of Transportation."

(Source: Amended at 22 Ill. Reg. _____, effective _____)

CARNIVAL-AMUSEMENT SAFETY BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Carnival and Amusement Ride Inspection Law
 - 2) Code Citation: 56 Ill. Adm. Code 6000
 - 3) Section Numbers: Adopted Action:
6000.10 Amendments
6000.50 Amendments
 - 4) Statutory Authority: 430 ILCS 85/2-6
 - 5) Effective Date of Rulemaking: December 1, 1997
 - 6) Does this rulemaking contain an automatic repeal date? No
 - 7) Does this rulemaking contain incorporations by reference? No
 - 8) Date Filed in Agency's Principal Office: October 24, 1997
 - 9) Notice of Proposal Published in Illinois Register: July 25, 1997, 21 Ill. Reg. 9632
 - 10) Has JCAR issued a Statement of Objections to these rules? No
 - 11) Difference(s) between proposal and final version: Corrected table of contents to reflect changes in text; Section 6000.50(c) and (d), added ".00" after dollar; Section 6000.10, moved period in definition of operator; Section 6000.50, change "this" to "the".
 - 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were requested.
 - 13) Will this rulemaking replace an emergency rule currently in effect? No
 - 14) Are there any amendments pending on this Part? Yes
- | | | |
|------------------------|-----------------------|-----------------------------------|
| <u>Section Numbers</u> | <u>Adopted Action</u> | <u>Illinois Register Citation</u> |
| 6000.300 | Amendment | 21 Ill. Reg. 3781, March 28, 1997 |
- 15) Summary and Purpose of Rulemaking: This amendment implements action taken by the Board at their January 18, 1997 meeting.
 The Department of Labor spends an inordinate amount of money (the salary of the prosecutor, the administrative law judge, the court reporter, postage, printing, etc.) prosecuting claims to suspend permits to operate amusement rides and attractions pending the payment of inspection fees and fines. The vast majority of the respondents in such cases are repeat violators.

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The de minimis nature of the inspection fees and fines clearly does not prevent a violator from waiting until the Department of Labor files and convenes an administrative hearing before it pays the requisite fees and fines.

The assessment of a \$250 fee upon a violator at the time the Director of Labor issues a notice for an administrative hearing to suspend operating permits and collect inspection fees should provide a violator with an incentive to pay their inspection fees on a timely basis.

The scheduling fee would be assessed against only those operators, both fixed and mobile, who do not file their application at least two weeks prior to their first operating/opening date. This assessment would also apply to the operator who has only one ride and books-in with an operator who filed their paperwork within the time limit.

The inspection program has been in existence since 1985 and the operators know the filing requirements. There are still a few operators who file their paperwork, by fax, on Wednesday and want an inspection before they open on Friday. The inspector's assignments are made two weeks in advance, based upon the latest information on file. Trying to accommodate these late filers creates as scramble in rescheduling, additional travel expenditure, and overtime for the inspectors.

While the charging of a scheduling fee may not eliminate the late filings, it will decrease them and make scheduling of inspections much easier. This fee would only be assessed against those operators who do not have their application, route sheet, and other paperwork on file in the Springfield office at least two weeks prior to their first operating date.

16) Information and questions regarding these adopted amendments shall be directed to:

Name: Carl Kimble, Chief Inspector
Address: Carnival and Amusement Ride Division
Illinois Department of Labor
#1 W. Old State Capitol Plaza, Room 300
Springfield, Illinois 62701
Telephone: (217) 782-9347

The full text of the Adopted Amendment begins on the next page:

CARNIVAL-AMUSEMENT SAFETY BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER XIII: CARNIVAL-AMUSEMENT SAFETY BOARD

PART 6000

CARNIVAL AND AMUSEMENT RIDE INSPECTION LAW

Section	
6000.10	Definitions
6000.20	Exemptions
6000.30	Inspections
6000.40	Application for a Permit to Operate
6000.50	Permit, and Inspection and Associated Fees
6000.60	Revocation of Permit to Operate (Repealed)
6000.65	Suspension of Permit to Operate
6000.70	Ride Design and Construction
6000.80	Insurance
6000.90	Penalties
6000.100	Appeals
6000.110	Assembly and Disassembly
6000.120	Operator Requirements
6000.130	Passenger Conduct
6000.140	Signal Systems
6000.150	Daily Inspection and Test Reports
6000.160	Maintenance
6000.180	Stop Operation Order
6000.190	Fire Prevention and Protection
6000.200	Internal Combustion Engines
6000.210	Means of Access and Egress
6000.220	Electrical Equipment
6000.230	Hydraulic Systems
6000.240	Air Compressors and Equipment
6000.250	Wire Rope
6000.260	Chain
6000.270	Inflated Amusement Attractions and Inflated Buildings
6000.280	Non-Destructive Testing
6000.290	Ski Lifts, Aerial Tramways, and Rope Tows
6000.300	Go-Karts, Dune Buggies, and All-Terrain Vehicles
6000.310	Water Slides
6000.320	Dry Type Slides
6000.330	Trams
6000.340	Bungee Jumping

AUTHORITY: Implementing and authorized by the Carnival and Amusement Rides Safety Act [430 ILCS 85].

SOURCE: Emergency Rules adopted at 9 Ill. Reg. 7176, effective May 3, 1985, for a maximum of 150 days; emergency expired September 30, 1985; adopted at 10

CARNIVAL-AMUSEMENT SAFETY BOARD

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Ill. Reg. 7685, effective April 29, 1986; emergency amendment at 10 Ill. Reg. 19117, effective October 27, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 5896, effective March 24, 1987; amended at 11 Ill. Reg. 19650, effective November 18, 1987; amended at 12 Ill. Reg. 11186, effective June 20, 1988; emergency amendment at 13 Ill. Reg. 8025, effective May 15, 1989, for a maximum of 150 days; emergency expired October 12, 1989; amended at 13 Ill. Reg. 20309, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 3235, effective February 9, 1990, for a maximum of 150 days; emergency expired July 9, 1990; amended at 15 Ill. Reg. 4109, effective February 28, 1991; emergency amendment at 16 Ill. Reg. 7716, effective May 11, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12436, effective August 1, 1992; amended at 16 Ill. Reg. 15415, effective September 28, 1992; amended at 17 Ill. Reg. 14910, effective September 1, 1993; amended at 18 Ill. Reg. 13384, effective September 1, 1994; amended at 21 Ill. Reg. 5135, effective April 15, 1997; amended at 21 Ill. Reg. ~~14954~~, effective _____.

Section 6000.10 Definitions

In addition to those definitions found in Section 2-2 of the Carnival and Amusement Rides Safety Act (the Act) [430 ILCS 85/2-2], the following definitions shall apply for the purposes of this Part:

"Administrative Hearing Fee" means a fee assessed by the Department upon an operator when the Department issues a notice for an administrative hearing to suspend the Permit to Operate and/or collect past due fees.

"Annual Inspection" is the official inspection of a ride or device made by the Director or his designee.

"ANSI" is the abbreviation for the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

"ASNT" is the abbreviation for the American Society for Nondestructive Testing, Inc., 1711 Arlington Plaza, P.O. Box #28518, Columbus, Ohio 43228-0518.

"ASTM" is the abbreviation for American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959.

"Department" means Illinois Department of Labor. (Section 2-2 of the Act)

"Director" means the Director of the Illinois Department of Labor or his designee. (Section 2-2 of the Act)

"Dry Slides" means an inclined surface with a change in elevation of

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twenty feet or more upon which people slide or are conveyed.

"Flume" means an inclined channel which conveys the water and the slide participant from the top of the slide to the plunge pool.

"Inspection Scheduling Fee" means a fee assessed by the Department upon an operator who requests an inspection less than two weeks before the first scheduled day of operation.

"Kiddie Rides" are those rides which are designed for 75 pounds or less per passenger.

"Major Alteration" means a change in the type or capacity of an amusement ride or amusement attraction or a change in the structure or mechanism that materially affects its functions or operation. This includes, but is not limited to changing its mode of transportation from non-wheeled to a truck or flat-bed mount, and changing its mode of assembly or other operational functions from manual to mechanical or hydraulic.

"Major Breakdown" means a stoppage of operation of an amusement ride or amusement attraction occurring from damage of a structural component.

"Major Rides" are those rides which are designed for more than 75 pounds per passenger unit.

"NFPA" is the abbreviation for National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

"Operator" means a person, or agent of a person, who owns or controls or has the duty to control the operation of an amusement ride or amusement attraction at a carnival or fair. "Operator" includes an agency of the State or any of its political subdivisions. (Section 2-2 of the Act)- For the purpose of this Part:

Owner means the person, partnership, company, corporation, or any other entity, or agency of the State or any of its political subdivisions, who owns an amusement ride or amusement attraction.

Agent means a person employed by the Owner to carry out the responsibilities of management on the Owner's behalf.

Manager means a person employed by the Owner and who is responsible to the Agent or the Owner for the day-to-day on-site management of the amusement ride(s) and/or amusement attraction(s).

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Attendant means a person employed by the Owner to physically operate an amusement ride or amusement attraction when it is open to the public.

Assistant means a person employed by the Owner to assist the Attendant in operating an amusement ride or amusement attraction when it is open to the public.

"Payment of Fees" as used in this Part shall be deemed made if the department receives all fees assessed in the form of a check or money order made payable to "Illinois Department of Labor" no later than seven calendar days after the date of inspection.

"Permit" means a permit issued annually by the Department allowing an amusement ride or an amusement attraction unit to be operated in the State of Illinois.

"Plunge Pool" means a pool or artificial body of water into which a person exits from a water slide.

"Public Use" means an operator of an amusement ride or amusement attraction does not prohibit or restrict access to the ride or attraction by members of the community, except as permitted under Section 2-19 of the Act and Section 6000.130 of this Part.

"Reinspection" is an inspection, other than the annual inspection made during the year, as a result of any necessary repairs not being completed while the inspector is on site.

"Serious Injury" means an injury for which treatment by a licensed physician is required.

"Tram" means: Any tram, open car, or combination of open cars or wagons pulled by a tractor or other motorized device which is not licensed by the Secretary of State, which may, but does not necessarily follow a fixed or restricted course, and is used primarily for the purpose of giving its passengers amusement, pleasure, thrills or excitement, and for which an individual fee is charged or a donation accepted with the exception of hayrack rides. (Section 2-2 of the Act)

"Water Slide" means a slide which consists of a flume, a plunge pool, a pump reservoir and water treatment facilities where water is pumped to the top of the flume and allowed to flow down the flume to the plunge pool.

(Source: Amended at 21 Ill. Reg. 14099, effective _____)

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Section 6000.50 Permit, and Inspection and Associated Fees

Fees assessed under the Act will be: Annual-permit-and-inspection--fees--under this-Act-will-be:

a) Permit Fees

- 1) Kiddie Rides: \$10.00 each
- 2) Major Rides: \$25.00 each
- 3) Amusement Attractions: \$25.00 each
- 4) Ski Lifts, Aerial Tramways, and Rope Tows: \$25.00 each
- 5) Inflated Amusement Attractions: \$10.00 each
- 6) Permit issued upon resolution of a Stop Operation Order: \$10.00 each

b) Inspection Fees

- 1) Kiddie Rides: \$20.00 each
- 2) Major Rides: \$50.00 each
- 3) Amusement Attractions: \$50.00 each
- 4) Ski Lifts, Aerial Tramways, and Rope Tows: \$50.00 each
- 5) Inflated Amusement Attractions: \$20.00 each
- 6) Reinspection to resolve a Stop Operation Order: \$250.00 each
- 7) Reinspection: \$20.00 each
- c) Administrative Hearing Fee: \$250.00 per hearing. Fees-double-if--not paid-within-45-days-
- d) Inspection Scheduling Fee: \$100.00 per amusement ride and/or amusement attraction.
- e) Fees double if not paid within 45 days.

(Source: Amended at 21 Ill. Reg. 14099, effective _____)

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- 1) Heading of the Part: Child Care
- 2) Code Citation: 89 Ill. Adm. Code 50
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
50.101	New Section
50.110	New Section
50.120	New Section
50.130	New Section
50.210	New Section
50.220	New Section
50.230	New Section
50.235	New Section
50.240	New Section
50.250	New Section
50.310	New Section
50.320	New Section
- 4) Statutory Authority: Implementing Articles I through IX and authorized by Section 12-13 of the Illinois Public Aid Code (305 ILCS 5/Arts. I through IX and 12-13) and Section 402 of the Social Security Act as revised by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) and PA 90-17.
- 5) Effective Date of Rulemaking: November 10, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: November 10, 1997
- 9) Notice of Proposal Published in Illinois Register: July 18, 1997 (21 Ill. Reg. 9393)
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: The following changes were made in the text of the proposed amendments:
 1. "By" in the Section title for Section 50.101, was changed to the lower case.
 2. In Section 50.110(a)(1), a comma was inserted after "reduce" and the spelling of "assistance" was corrected.
 3. In Section 50.110(a)(2), "Subpart" was changed to "Part".

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4. "including the transportation needs of the family" was added at the end of Section 50.110(b).
5. "or other relatives" was deleted from Section 50.110(c).
6. In Section 50.110(d), "or other relatives" was deleted and "to provide" was changed to "for providing".
7. Section 50.110(e) was revised as follows:
 "parents are responsible for reporting to the Department or its agents all changes in income, employment, family size, number of children receiving care or any other factor that would affect eligibility for child care services. The Department or its agents may schedule a redetermination at any time upon receiving information that could affect eligibility for child care services."
8. In Section 50.110(f), "or other relatives" and "appropriate and" were deleted and "offered to particular categories of caregivers, such as foster parents who are employed and need child care to be foster parents" was added at the end of the Section.
9. Section 50.120(b) was revised as follows:
 "The Department or its agents will make a determination and notify an applicant of its determination on an application for child care within 45 days from the date the application is received by the Department or its agents."
10. "and" was deleted from Section 50.210(a)(1).
11. "; and" was added at the end of Section 50.210(a)(2).
12. New Section 50.210(a)(3) was added as follows:
 "To teen parents to enable them to obtain a high school degree or its equivalent."
13. Section 50.210(b) was revised as follows:
 "The term 'parents' and the phrase 'parents or other relatives' refer to applicants for or recipients of child care services. They include a child's custodial biological or adoptive parent, stepparent, legal guardian, or caretaker relative within the fifth degree of kinship."
14. New Section 50.210(c) was added as follows:

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"Family means the applicant, his or her spouse, and the biological, adoptive children or stepchildren of the applicant or his or her spouse under age 21 living in the same household. The applicant may include in his or her family other persons related by blood or law to the applicant or his or her spouse living the same household if they are dependent upon the family for more than 50 percent of their support. The applicant may include in his or her family a child of the applicant or his or her spouse under age 21 who is dependent upon the family for more than 50 percent of his or her support and who is a full-time student away at school, provided he or she has not established legal residence outside the family household."

15. New Section 50.210(d) was added as follows: "Teen parent means parents through age 19."

16. In Section 50.230(a), "under the age of 13 or to children under the age of 20" was changed to "under age 13 and to children under age 20."

17. In Section 50.230(b)(1), "and" was changed to "who".

18. In Section 50.230(b)(2), ", including teen parents while they attend school to obtain a high school degree or its equivalent," was added after "Working families".

19. In Section 50.230(b)(3), "BA" was changed to "Bachelors" and "subsection (b)" was changed to "subsection (b)(1) or (2)".

20. New Section 50.230(d) was added as follows:

"Payment for child care services to eligible parents may begin on the first day of the month before the month in which the application is received by the Department or its agents."

21. New Section 50.230(e) was added as follows:

"Eligibility ceases 10 calendar days from the date of the termination notice sent to the parent by the Department or its agents following a determination of ineligibility."

22. New Section 50.235 "Income Eligibility Criteria" was added as follows:

"A family is considered 'income eligible' when the combined gross monthly income of all family members is at or below the amounts listed in Section 50.230 for the corresponding family size. In two (2) parent families, both incomes must be combined to determine eligibility. Eligibility is determined on the basis of

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monthly gross income. To convert weekly income into monthly income, multiply weekly income by 4.333. To convert bi-weekly income into monthly income, multiply bi-weekly income by 2.1666. To convert twice monthly income into monthly income, multiply twice monthly income by 2. Documentation must be secured for all income and maintained in the family eligibility file prior to approval for child care payments.

(a) Income Included (Non-Exempt)

(1) money, wages and salary (before deductions are made for taxes, bonds, pensions, union dues, etc.); Note: This would include any money allowances received for clothing, housing, etc. (as in government wages).

(2) net income from farm self-employment;

(3) net income from non-farm self-employment;

(4) dividends, interest, net rental income and royalties;

(5) pensions and annuities;

(6) alimony;

(7) child support received by the family;

(8) ongoing monthly adoption assistance payments from DCFS;

(9) veteran's pensions;

(10) unemployment compensation;

(11) worker's compensation;

(12) public assistance and welfare payments;

(13) social security payments for all family members, including SSI and pensions;

(14) survivor's benefits, permanent disability payments, and railroad retirement benefits from the federal government.

(b) Exempt Income

(1) per capita payments to or funds held in trust for any individual in satisfaction of the Indian Claims Commission or the Court of Claims;

(2) payments made pursuant to the Alaska Native Claims Settlement Act to the extent such payments are exempt from taxation under Section 21(a) of the Act (43 U.S.C. 1620(a));

(3) money received from sale of property, such as stocks, bonds, a house, or a car (unless the person was engaged in the business of selling such property, in which case the net proceeds would be counted as income from self-employment);

(4) money borrowed including educational loans to a student who is included in the family unit as authorized in Section 50.210(c);

(5) withdrawals of bank deposits;

(6) tax refunds, or any Earned Income Tax Credit payments;

(7) gifts;

(8) lump sum inheritances or insurance payments;

(9) capital gains;

(10) the value of the coupon allotment or food stamp benefits under the Food Stamp Act of 1977, as amended;

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- (11) the value of United States Department of Agriculture (USDA) donated foods;
- (12) the value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service for children under the National School Lunch Act, as amended;
- (13) any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- (14) earnings of a child under age 19 (unless that child is the applicant);
- (15) grants such as scholarships, obtained and used by a student who is included in the family unit as authorized in Section 50.210(c) under conditions that preclude their use for current living costs;
- (16) any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commission of Education under the Higher Education Act of 1965;
- (17) home produce utilized for household consumption;
- (18) energy grants or allowances received through the Low-Income Energy Assistance Program authorized by the Home Energy Assistance Act of 1980;
- (19) any DCF foster care board payments or clothing allowance;
- (20) child support paid out of the family's income."

23. Section 50.240(a), "and" was changed to ";", "Subchapter (e)" was changed to "Subchapter e:" Requirements for licensure", "Fire Marshall" was correctly spelled, and the comma after "41 Ill. Adm. Code 100" was changed to a semi-colon.

24. In Section 50.240(a)(5), "unrelated" was deleted.

25. The colons in Sections 50.240(5), (6), (7) and (8) were deleted.

26. Section 50.240(b), the hyphen was deleted from "step-parent".

27. Section 50.240(c), " , Chapter III, Part" was deleted and "Subchapter d," was deleted.

28. In Section 50.250, "the" was deleted.

29. Section 50.310 "Fees for Child Care Services" was revised as follows:
 "All parents must share in the cost of child care as illustrated in Section 50.320. These parent fees will be explained to parents beginning in July 1997 and will be collected beginning in October 1997."

30. "Section 50. TABLE A CHILD CARE PAYMENT RATES" was deleted.

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31. "Section 50. TABLE B" was changed to "Section 50.320".
32. In new Section 50.320, "(see Section 50.320(b)(3))" was added after "Grandfathered Cases".
33. In Section 50.320, some figures were revised.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: In conjunction with the formation of the Department of Human Services (DHS), this rulemaking adds child care rules for the newly-created DHS. These child care rules are intended to replace the current Department of Public Aid (DPA) and Department of Children and Family Services (DCFS) child care rules. This new child care program is authorized by PA 90-17. It is an income-based program which also requires clients to contribute to the cost of care based on income and family size.

16) Information and questions regarding these adopted amendments shall be directed to:

Name: Susan Warner, Manager
 Address: Bureau of Administrative Rules and Procedures
 Department of Human Services

100 South Grand Avenue East
 3rd Floor, Harris Bldg.

Springfield, Illinois 62762

Telephone: (217) 785-9772

TTY: (217) 557-1547

The full text of the Adopted Rule begins on the next page:

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TITLE 89: SOCIAL SERVICES
 CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
 SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 50
 CHILD CARE

SUBPART A: GENERAL PROVISIONS

Section

50.101 Incorporation by Reference
 50.110 Participant Rights and Responsibilities
 50.120 Notification of Available Services
 50.130 Child Care Overpayments and Recoveries

SUBPART B: APPLICABILITY

Section

50.210 Child Care
 50.220 Method of Providing Child Care
 50.230 Child Care Eligibility
 50.235 Income Eligibility Criteria
 50.240 Qualified Provider
 50.250 Additional Service to Secure or Maintain Child Care

SUBPART C: PAYMENT FEES

Section

50.310 Fees for Child Care Services
 50.320 Maximum Annual Income and Parent Fee by Family Size, Income Level and Number of Children Receiving Care

AUTHORITY: Implementing Articles I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IX and 12-13].

SOURCE: Emergency rules adopted at 21 Ill. Reg. 9502, effective July 1, 1997, for a maximum of 150 days; adopted at 21 Ill. Reg. ~~14061~~, effective ~~14061~~.

SUBPART A: GENERAL PROVISIONS

Section 50.101 Incorporation by Reference

Any rules or regulations of an agency of the United States or of a nationally recognized organization or association that are incorporated by reference in this Part are incorporated as of the date specified, and do not include any later amendments or editions.

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Section 50.110 Participant Rights and Responsibilities

a) Hearings

- 1) Persons receiving child care services can request hearings, as provided at 89 Ill. Adm. Code 104, Subpart A, as appropriate, on issues concerning the appropriateness of, denial of, prompt issuance of, or intended actions to discontinue, terminate, suspend or reduce, child care assistance under this Part.
- 2) Assistance under this Part will not be continued at the previous level pending a hearing.
- b) Child care services received by a family must be reasonably related to the hours of training or employment including the transportation needs of the family.
- c) Parents may choose their child care arrangements, but payments will be subject to all appropriate rules.
- d) Parents are responsible for providing income verification and all other information required by the Department in order to determine eligibility for child care services.
- e) Parents are responsible for reporting to the Department or its agents all changes in income, employment, family size, number of children receiving care or any other factor that would affect eligibility for child care services. The Department or its agents may schedule a redetermination at any time upon receiving information that could affect eligibility for child care services.
- f) Parents must avail themselves of all other available child care services including child care appropriate and available from the Department of Children and Family Services offered to particular categories of caregivers, such as foster parents who are employed and need child care to be foster parents.

Section 50.120 Notification of Available Services

- a) The Department or its agents will notify, in writing, all applicants for and families receiving services of programs and supportive services available to them for which they are eligible, and the rights, responsibilities and obligations of participants in the program.
- b) The Department or its agents will make a determination and notify an applicant of its determination on an application for child care within 45 days from the date the application is received by the Department or its agents.

Section 50.130 Child Care Overpayments and Recoveries

The Department will recover overpayments from providers or parents and other relatives, as appropriate, through demand letters, referrals to the Comptroller's Office for withholding, referrals to collection agencies, reductions in future payments or public assistance benefits, or other means

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determined by the Department to be effective.

SUBPART B: APPLICABILITY

Section 50.210 Child Care

a) To the extent resources permit, the Department shall provide child care services:

- 1) to parents or other relatives who are working;
- 2) to parents or other relatives who are participating in employment, training, or education programs approved by the Department; and
- 3) to teen parents to enable them to obtain a high school degree or its equivalent.

b) The term "parents" and the phrase "parents or other relatives" refer to applicants for or recipients of child care services. They include a child's custodial biological or adoptive parent, stepparent, legal guardian, or caretaker relative within the fifth degree of kinship.

c) Family means the applicant, his or her spouse, and the biological or adoptive children or stepchildren of the applicant or his or her spouse under age 21 living in the same household. The applicant may include in his or her family other persons related by blood or law to the applicant or his or her spouse living in the same household if they are dependent upon the family for more than 50 percent of their support. The applicant may include in his or her family a child of the applicant or his or her spouse under age 21 who is dependent upon the family for more than 50 percent of his or her support and who is a full-time student away at school, provided he or she has not established legal residence outside the family household.

d) Teen parent means parents through age 19.

Section 50.220 Method of Providing Child Care

Child care may be provided through one of the following methods:

- a) direct payment to the clients for child care costs;
- b) arranging the child care through eligible providers by use of purchase of service contracts or vouchers;
- c) arranging with other agencies and community volunteer groups for non-reimbursed child care; and
- d) adopting such other arrangements as the Department determines appropriate.

Section 50.230 Child Care Eligibility

a) Child care services are restricted to children under age 13 and to children under age 20 who are under court supervision or have physical or mental incapacities as documented by a statement from a local health provider or other health professional.

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b) Parents and other relatives eligible to receive child care services include:

- 1) Recipients of Temporary Assistance for Needy Families (TANF) under Article IV of the Public Aid Code participating in work and training activities as specified in their personal plans for employment and self-sufficiency who have been approved for child care benefits by the Department and who meet the annual income ceilings in subsection (b)(2) of this Section.

2) Working families, including teen parents while they attend school to obtain a high school degree or its equivalent, whose annual incomes do not exceed the following amounts by family size:

Family Size	Annual Income
2	\$17,663
3	\$21,819
4	\$25,975
5	\$30,131
6	\$34,288
7	\$35,067
8	\$35,846

3) Families who are receiving child care services on July 1, 1997, in order to work or attend school (up to and including the acquisition of a Bachelor's degree) and whose annual incomes do not exceed the following amounts by family size:

Family Size	Annual Income
2	\$21,234
3	\$26,230
4	\$31,266
5	\$36,223
6	\$41,218
7	\$42,155
8	\$43,092

Such families are eligible to receive these services through June 30, 1998, at which point they must be eligible under subsection (b)(1) or (2) of this Section to receive services.

- c) All families must be residents of Illinois.
- d) Payment for child care services to eligible parents may begin on the first day of the month before the month in which the application is received by the Department or its agents.
- e) Eligibility ceases 10 calendar days from the date of the termination notice sent to the parent by the Department or its agents following a determination of ineligibility.

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Section 50.235 Income Eligibility Criteria

A family is considered "income eligible" when the combined gross monthly income of all family members is at or below the amounts listed in Section 50.230 for the corresponding family size. In two parent families, both incomes must be combined to determine eligibility.

Eligibility is determined on the basis of monthly gross income. To convert weekly income into monthly income, multiply weekly income by 4.333. To convert bi-weekly income into monthly income, multiply bi-weekly income by 2.1666. To convert twice monthly income into monthly income, multiply twice monthly income by 2.

Documentation must be secured for all income and maintained in the family eligibility file prior to approval for child care payments.

a) Income Included (Non-Exempt)

- 1) money, wages and salary (before deductions are made for taxes, bonds, pensions, union dues, etc.);
- Note: This would include any money allowances received for clothing, housing, etc. (as in government wages).
- 2) net income from farm self-employment;
- 3) net income from non-farm self-employment;
- 4) dividends, interest, net rental income and royalties;
- 5) pensions and annuities;
- 6) alimony;
- 7) child support received by the family;
- 8) ongoing monthly adoption assistance payments from DCFS;
- 9) veteran's pensions;
- 10) unemployment compensation;
- 11) worker's compensation;
- 12) public assistance and welfare payments;
- 13) social security payments for all family members, including SSI and pensions;
- 14) survivor's benefits, permanent disability payments, and railroad retirement benefits from the federal government.

b) Exempt Income

- 1) per capita payments to or funds held in trust for any individual in satisfaction of the Indian Claims Commission or the Court of Claims;
- 2) payments made pursuant to the Alaska Native Claims Settlement Act to the extent such payments are exempt from taxation under Section 21(a) of the Act (43 U.S.C. 1620(a));
- 3) money received from sale of property, such as stocks, bonds, a house, or a car (unless the person was engaged in the business of selling such property, in which case the net proceeds would be counted as income from self-employment);
- 4) money borrowed, including educational loans to a student who is included in the family unit as authorized in Section 50.210(c);
- 5) withdrawals of bank deposits;
- 6) tax refunds, or any Earned Income Tax Credit payments;

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- 7) gifts;
- 8) lump sum inheritances or insurance payments;
- 9) capital gains;
- 10) the value of the coupon allotment or food stamp benefits under the Food Stamp Act of 1977, as amended;
- 11) the value of United States Department of Agriculture (USDA) donated foods;
- 12) the value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service for children under the National School Lunch Act, as amended;
- 13) any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- 14) earnings of a child under age 19 (unless that child is the applicant);
- 15) grants such as scholarships, obtained and used by a student who is included in the family unit as authorized in Section 50.210(c) under conditions that preclude their use for current living costs;
- 16) any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commission of Education under the Higher Education Act of 1965;
- 17) home produce utilized for household consumption;
- 18) energy grants or allowances received through the Low-Income Energy Assistance Program authorized by the Home Energy Assistance Act of 1980;
- 19) any DCFS foster care board payments or clothing allowance;
- 20) child support paid out of the family's income.

Section 50.240 Qualified Provider

- a) Payment will be made for child care that otherwise meets the requirements of this Section; meets applicable standards of State and local law and regulation, including but not limited to licensure requirements promulgated by the Department of Children and Family Services (DCFS) at 89 Ill. Adm. Code: Chapter I, Subchapter e: Requirements for Licensure, and Fire Prevention and Safety Requirements promulgated by the Office of the State Fire Marshal at 41 Ill. Adm. Code 100; and is provided in any of the following:

- 1) Licensed Day Care Center;
- 2) Day Care Center Exempt from Licensing;
- 3) Licensed Day Care Home;
- 4) Licensed Group Day Care Home;
- 5) Day Care Home Exempt from Licensing (No more than three children may be cared for, including the provider's own children, unless all children are from the same household);
- 6) Relative Exempt from Licensing (Care provided in the home of a relative. No more than three children may be cared for, including the provider's own children, unless all children are

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- from the same household);
- 7) Non-relative Exempt from Licensing (Care provided in the home of the child. No more than three children may be cared for, including the provider's own children, unless all children are from the same household); and
- 8) Relative Exempt from Licensing (Care provided in the home of the child. No more than three children may be cared for, including the provider's own children, unless all children are from the same household).
- b) Payments will not be made to a provider who is the child's mother or father, or to a stepparent who is currently married to the child's parent and is living in the same household as the child, or to any provider who is included in the same public assistance grant as the child (for those families receiving such assistance).
- c) Payments will not be made to a provider (even if operating within a setting exempt from licensing) who has been convicted of crimes enumerated in 89 Ill. Adm. Code 385, Background Checks.

Section 50.250 Additional Service to Secure or Maintain Child Care

The Department will provide payments to secure or maintain a child care arrangement for a period not to exceed one month where child care arrangements would otherwise be lost and subsequent employment or activity is scheduled to begin or resume within that period.

SUBPART C: PAYMENT FEES

Section 50.310 Fees for Child Care Services

All parents must share in the cost of child care as illustrated in Section 50.320. These parent fees will be explained to parents beginning in July 1997 and will be collected beginning in October 1997.

Section 50.320 Maximum Annual Income and Parent Fee by Family Size, Income Level and Number of Children Receiving CareMONTHLY FEE FOR NUMBER OF CHILDREN IN CARE FOR FAMILY SIZE OF 2

Gross Annual Income		1
\$	0 - 3,533	\$ 4.33
	3,534 - 5,299	13.00
	5,300 - 7,065	21.67
	7,066 - 8,832	34.66
	8,833 - 10,598	47.66
	10,599 - 12,364	65.00
	12,365 - 14,131	86.66
	14,132 - 15,897	108.33
	15,898 - 17,663	134.32

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Grandfathered Cases (see Section 50.230(b)(3)) 10/01/97 - 6/30/98

\$17,664 - 19,430 \$160.32
19,431 - 21,234 190.65

MONTHLY FEE FOR NUMBER OF CHILDREN IN CARE FOR FAMILY SIZE OF 3

Gross Annual Income		1	2
\$	0 - 4,564	\$ 4.33	\$ 8.67
	4,565 - 6,546	13.00	17.33
	6,547 - 8,728	21.67	30.33
	8,729 - 10,910	34.66	52.00
	10,911 - 13,092	47.66	69.33
	13,093 - 15,274	65.00	95.33
	15,275 - 17,456	86.66	147.32
	17,457 - 19,638	108.33	190.65
	19,639 - 21,819	134.32	233.98

Grandfathered Cases 10/01/97 - 6/30/98

\$21,820 - 24,001 \$160.32 \$281.65
24,002 - 26,230 190.65 337.97

MONTHLY FEE FOR NUMBER OF CHILDREN IN CARE FOR FAMILY SIZE OF 4

Gross Annual Income		1	2	3
\$	0 - 5,195	\$ 4.33	\$ 8.67	\$ 8.67
	5,196 - 7,793	13.00	17.33	17.33
	7,794 - 10,390	21.67	30.33	34.66
	10,391 - 12,988	34.66	52.00	52.00
	12,989 - 15,585	47.66	69.33	73.66
	15,586 - 18,183	65.00	95.33	99.66
	18,184 - 20,780	86.66	147.32	151.66
	20,781 - 23,378	108.33	190.65	194.99
	23,379 - 25,975	134.32	233.98	238.92

Grandfathered Cases 10/01/97 - 6/30/98

\$25,976 - 28,573 \$160.32 \$281.65 \$285.98
28,574 - 31,266 190.65 337.97 342.31

MONTHLY FEE FOR NUMBER OF CHILDREN IN CARE FOR FAMILY SIZE OF 5

Gross Annual Income		1	2	3	4
\$	0 - 6,026	\$ 4.33	\$ 8.67	\$ 8.67	\$ 8.67

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6,027 - 9,039
9,040 - 12,053
12,054 - 15,066
15,067 - 18,079
18,080 - 21,092
21,093 - 24,105
24,106 - 27,118
27,119 - 30,131

13.00
21.67
34.66
47.66
65.00
86.66
108.33
134.32

17.33
30.33
52.00
69.33
95.33
147.32
190.65
233.98

21.67
34.66
56.33
77.99
103.99
155.99
199.32
242.65

Grandfathered Cases 10/01/97 - 6/30/98

\$ 30,132 - 33,145
33,146 - 36,223

\$160.32
190.65

\$281.65
337.97

\$285.98
342.31

\$290.31
346.64

MONTHLY FEE FOR NUMBER OF CHILDREN IN CARE FOR FAMILY SIZE OF 6

Gross Annual Income	1	2	3	4	5
\$ 0 - 6,858	\$ 4.33	\$ 8.67	\$ 8.67	\$ 8.67	\$ 8.67
6,859 - 10,286	13.00	17.33	17.33	21.67	21.67
10,287 - 13,715	21.67	30.33	34.66	34.66	39.00
13,716 - 17,144	34.66	52.00	52.00	56.33	60.66
17,145 - 20,573	47.66	69.33	73.66	77.99	82.33
20,574 - 24,001	65.00	95.33	99.66	103.99	108.33
24,002 - 27,430	86.66	147.32	151.66	155.99	160.32
27,431 - 30,859	108.33	190.65	194.99	199.32	203.65
30,860 - 34,288	134.32	233.98	238.32	242.65	246.98

Grandfathered Cases 10/01/97 - 6/30/98

\$34,289 - 37,716
37,717 - 41,218

\$160.32
190.65

\$281.65
337.97

\$285.98
342.31

\$290.31
346.64

MONTHLY FEE FOR NUMBER OF CHILDREN IN CARE FOR FAMILY SIZE OF 7

Gross Annual Income	1	2	3	4	5	6
\$ 0 - 7,013	\$ 4.33	\$ 8.67	\$ 8.67	\$ 8.67	\$ 8.67	\$ 8.67
7,014 - 10,520	13.00	17.33	17.33	21.67	21.67	21.67
10,521 - 14,027	21.67	30.33	34.66	34.66	39.00	39.00
14,028 - 17,533	34.66	52.00	52.00	56.33	60.66	65.00
17,534 - 21,040	47.66	69.33	73.66	77.99	82.33	86.66
21,041 - 24,547	65.00	95.33	99.66	103.99	108.33	112.66
24,548 - 28,054	86.66	147.32	151.66	155.99	160.32	164.65
28,055 - 31,560	108.33	190.65	194.99	199.32	203.65	207.98
31,561 - 35,067	134.32	233.98	238.32	242.65	246.98	251.31

Grandfathered Cases 10/01/97 - 6/30/98

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\$35,068 - 38,574
38,575 - 42,155

\$160.32
190.65

\$281.65
337.97

\$285.98
342.31

\$290.31
346.64

\$294.64
350.97

\$298.98
355.31

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1) Heading of the Part: Practice in Administrative Hearings

2) Code Citation: 89 Ill. Adm. Code 104

3) Section Numbers: Adopted Action:
 104.100 Amendment
 104.101 Amendment
 104.102 Amendment
 104.104 Amendment
 104.209 Amendment
 104.210 Amendment
 104.213 Amendment
 104.221 Amendment
 104.246 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13], Public Law 104-193 and Public Act 90-18

5) Effective Date of Amendments: November 7, 1997

6) Does this rulemaking contain an automatic repeal date? No

7) Do these Amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: November 7, 1997

9) Notice of Proposal Published in Illinois Register: July 11, 1997 (21 Ill. Reg. 8858)

10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No

11) Differences between proposal and final version: In Section 104.100, a comma has been added after "to contest withholding".

In Section 104.102(b)(2)(D), the Ill Rev. Stat. citation has been changed to "[305 ILCS 5/11-8.2]".

In Section 104.104(a), "or terminate" has been changed to "terminate" and a comma has been added after "withholding notice".

The title of Section 104.209 has been changed to "Notice of Intent to Certify Past-Due Support Owed by a Responsible Relative to, or Failure to Comply with a Subpoena or Warrant from, a State Licensing Agency and to Take Disciplinary Action". These changes have also been made in the initial Section outline.

In Section 104.210(a)(4), "to," has been added after "responsible relative", "from," has been added after "or warrant" and the following

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"to" has been stricken.

In Section 104.246(e), "Section" has been changed to "89 Ill. Adm. Code".

No other changes have been made in the text of the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these Amendments replace Emergency Amendments currently in effect?
 Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: These amendments make changes to the Department's hearing rules that are necessitated by companion amendments to the Department's rules in 89 Ill. Adm. Code 160 on the Title IV-D Child Support Enforcement Program, which were effective by emergency action on July 1, 1997. These changes are necessary for implementation of requirements under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) and Public Act 90-18. The amendments:

- delete references to hearings on petitions to stay service of orders for withholding and notices of delinquency and substitute provisions for hearings to contest or correct income withholding notices;
- provide for hearings where the Department intends to certify a responsible relative's failure to comply with a subpoena or warrant to a State licensing agency for suspension or revocation of a license;
- provide that a respondent in a contested administrative paternity hearing may file a demand in writing for a judicial determination of the existence of the father and child relationship; and
- provide that certified copies of bills for costs incurred for pregnancy and childbirth shall be admitted into evidence in Department administrative hearings without foundation testimony or other proof of authenticity or accuracy.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Joanne Jones

Address: Bureau of Rules and Regulations
 Illinois Department of Public Aid
 201 South Grand Avenue East, Third Floor
 Springfield, Illinois 62763

Telephone: (217) 524-0081

The full text of the Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER a: GENERAL PROVISIONS

PART 104

PRACTICE IN ADMINISTRATIVE HEARINGS

SUBPART A: ASSISTANCE APPEAL

Section

104.1	Assistance Appeals
104.10	Initiation of Appeal Process
104.11	Pre-Appeal Review
104.12	Notice of Hearing
104.20	Conduct of Hearings
104.21	Representation
104.22	Appellant Participation in Hearing
104.23	Evidentiary Requirements
104.30	Subpoenas
104.35	Amendment of Appeal
104.40	Consolidation of Appeals
104.45	Postponement or Continuation of Hearings
104.50	Withdrawal of Appeal
104.55	Closing of Hearing Record
104.60	Dismissal of Appeal
104.70	Final Administrative Decision
104.80	Public Aid Committee

SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

Section

104.100	Responsible Relative and Joint Payee Petitions
104.101	Petition for Hearing
104.102	Conduct of Administrative Support Hearings
104.103	Conduct of Hearings to Contest the Determination of Past-Due Support or of Share of Jointly-Owned Funds
104.104	Conduct of Other Hearings
104.105	Conduct of Hearings on Petitions for Release from Administrative Paternity Orders

SUBPART C: MEDICAL VENDOR HEARINGS

Section

104.200	Applicability
104.202	Definitions
104.204	Notice of Denial of an Application
104.206	Notice of Intent to Recover Money
104.207	Notice of Contested Paternity Hearing

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104.208	Notice of Intent to Terminate, Suspend or Not Renew Provider Agreement
104.209	Notice of Intent to Certify Past-Due Support Owed by a Responsible Relative to, or Failure to Comply with a Subpoena or Warrant from, to a State Licensing Agency and to Take Disciplinary Action
104.210	Right to Hearing
104.211	Notice of Termination or Suspension Pursuant to Exclusion by the Department of Health and Human Services
104.212	Prior Factual Determinations
104.213	Demand for Judicial Determination of the Existence of the Father and Child Relationship Party-Prat-in-Contested-Paternity-Hearings
104.215	Notice of Formal Conference
104.216	Formal Conference on Recovery of Money
104.217	Purpose of Formal Conference
104.220	Notice of Hearing
104.221	Issues at Hearings
104.225	Legal Counsel
104.226	Appearance of Attorney or Other Representative
104.230	Notice, Service and Proof of Service
104.231	Form of Papers
104.235	Discovery
104.240	Conduct of Hearings
104.241	Amendments
104.242	Motions
104.243	Subpoenas
104.244	Burden of Proof
104.245	Witness at Hearings
104.246	Evidence at Hearings
104.247	Cross-Examination
104.248	Genetic Testing in Contested Paternity Hearings
104.249	Official Notice
104.255	Computer Generated Documents
104.260	Recommendation of Peer Review Committee
104.270	Time Limits for Hearings
104.271	Continuances and Extensions
104.272	Withholding of Payments During Pendency of Proceedings
104.273	Continuation of Payments During Pendency of Proceedings
104.274	Denial of Payments for Services During Pendency of Proceedings
104.280	Record of Hearings
104.285	Failure to Appear or Proceed
104.290	Recommended Decision
104.295	Director's Decision

SUBPART D: RULES FOR JOINT DEPARTMENT ACTIONS AGAINST
SKILLED NURSING FACILITIES AND INTERMEDIATE CARE
FACILITIES PARTICIPATING IN THE MEDICAID PROGRAM

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- Section
104.300 Authority
104.302 Definitions
104.304 Department Actions Against Nursing Homes Facilities
104.310 Certification
104.320 Joint Administrative Hearing
104.330 Facilities Certified Under Both Medicare and Medicaid
- SUBPART E: FOOD STAMP ADMINISTRATIVE DISQUALIFICATION HEARINGS
- 104.400 Suspected Intentional Violation of the Program
104.410 Advance Notice of Administrative Disqualification Hearing
104.420 Postponement of Hearing
104.430 Administrative Disqualification Hearing Procedures
104.440 Failure to Appear
104.450 Participation While Awaiting a Hearing
104.460 Consolidation of Administrative Disqualification Hearing with Fair Hearing
- 104.470 Administrative Disqualification Hearing Decision and Notice of Decision
104.480 Appeal Procedure

SUBPART F: INCORPORATION BY REFERENCE

- Section
104.800 Incorporation by Reference

AUTHORITY: Implementing Sections 11-8 through 11-8.7, 12-4.9 and 12-4.25 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-8 through 11-8.7, 12-4.9, 12-4.25 and 12-13].

SOURCE: Filed and effective December 30, 1977; emergency rule at 2 Ill. Reg. 11, p. 151, effective March 9, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 10, effective May 26, 1978; amended at 2 Ill. Reg. 33, p. 57, effective August 17, 1978; peremptory amendment at 3 Ill. Reg. 11, p. 38, effective March 1, 1979; amended at 4 Ill. Reg. 21, p. 80, effective May 8, 1980; peremptory amendment at 5 Ill. Reg. 1197, effective January 23, 1981; amended at 5 Ill. Reg. 10753, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 8 Ill. Reg. 5274, effective April 9, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 16979; amended at 8 Ill. Reg. 18114, effective September 21, 1984; amended at 10 Ill. Reg. 10129, effective June 1, 1986; amended at 11 Ill. Reg. 9213, effective April 30, 1987; amended at 12 Ill. Reg. 9142, effective May 16, 1988; amended at 13 Ill. Reg. 3944, effective March 10, 1989; amended at 13 Ill. Reg. 17013, effective October 16, 1989; amended at 14 Ill. Reg. 18836, effective November 9, 1990; amended at 15 Ill. Reg. 5320, effective April 1, 1991; amended at 15 Ill. Reg. 6557, effective April 30, 1991; amended at 16 Ill. Reg. 12903, effective August 15, 1992;

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amended at 16 Ill. Reg. 16632, effective October 23, 1992; amended at 16 Ill. Reg. 18834, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 659, effective January 7, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 7025, effective April 30, 1993; amended at 18 Ill. Reg. 11260, effective July 1, 1994; amended at 19 Ill. Reg. 1321, effective January 30, 1995; emergency amendment at 19 Ill. Reg. 10268, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 15521, effective October 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15711, effective November 6, 1995; amended at 20 Ill. Reg. 1229, effective December 29, 1995; amended at 20 Ill. Reg. 5699, effective March 28, 1996; amended at 20 Ill. Reg. 14891, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 8671, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9306, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13648, effective October 1, 1997; amended at 21 Ill. Reg. 14369, effective _____.

SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

Section 104.100 Responsible Relative and Joint Payee Petitions

Sections 104.101 through 104.104 apply to all petitions of responsible relatives for release from or modification of Administrative Support Orders, or to contest determinations of the amount of past-due support or of the share of jointly-owned funds (see 89 Ill. Adm. Code 160.70), or to contest withholding, ~~stay-service-of~~ or to modify, suspend, or terminate, or correct terms contained in administrative income orders--for withholding--or--to--stay--service-of administrative notices of delinquency (see 89 Ill. Adm. Code 160.60(d)(6)).

(Source: Amended at 21 Ill. Reg. 14369, effective _____.)

Section 104.101 Petition for Hearing

- a) Any responsible relative aggrieved by an administrative support order entered, determination of past-due support or determination of the share of jointly-owned funds made by the Department may petition for a hearing for release from or modification of the order or to contest the determination.
- b) The petition under subsection (a) above shall be filed within 30 days from the date of mailing of such order or determination. The day immediately subsequent to the mailing of the order or determination shall be considered as the first day; and the day such petition is received by the Department shall be considered as the last day in computing the 30 day appeal period.
- c) Any responsible relative in a case with an administrative support order may petition the Department for a hearing to contest withholding, or to correct a term contained in an income withholding notice, or to modify, suspend or terminate an income withholding

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notice for the reasons provided in 89 Ill. Adm. Code 160.75(d), (e) and (j). Any responsible relative may petition the Department for a hearing to contest immediate service of an administrative order for withholding or to stay service of an administrative order for withholding or notice of delinquency or to modify, suspend or terminate an administrative order for withholding for the reasons provided in 89 Ill. Adm. Code 160.75(e), (e-7), (g)-(h) and (f).

d) The petition to modify, suspend, or terminate, or correct a term contained in an income administrative order for withholding notice may be filed at any time and the petition to contest stay--service-of such--order--or--an-administrative-notice-of-delinquency-or-a-petition contesting--immediate--service--of--an--administrative--order--for withholding shall be filed within 20 days after of the date of service of the copy of the income withholding notice of delinquency or notice for immediate withholding upon the responsible relative. The day immediately subsequent to the day of service of the copy of the notice shall be considered as the first day; and the day such petition is received by the Department shall be considered as the last day in computing the 20 day appeal period.

e) The Department shall, upon receipt of a petition, provide for a hearing to be held, except as provided in Section 104.103(b).

(Source: Amended at 21 Ill. Reg. 14 effective

Section 104.102 Conduct of Administrative Support Hearings

a) Hearing De Novo

11) The hearing shall be de novo and the Department's determination of liability or non-liability pursuant thereto shall be independent of the prior determination of liability.

2) In Title IV-D cases, the hearing shall only consider such matters as are relevant for a determination of the duty and financial ability to support under 89 Ill. Adm. Code 160.60 and 160.65.

b) Rules Governing Hearing

1) Hearings on petitions for release from or modification of the Administrative Support Order shall be governed by Sections 104.10 through 104.70, except that "appellant" as used within these Rules shall refer to the responsible relative who petitions and except as set out in subsection(b)(2) below.

2) In Title IV-D cases, the following additional rules shall govern:

A) A request for appeal must be filed with the regional or central office of the Bureau of Child Support Enforcement at the address furnished in the administrative support order.

B) For purposes of notice and of presenting evidence, the Title IV-D client shall be considered an interested party.

C) Hearings shall be conducted by a hearing officer authorized by the Director of the Department to consider issues under

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D) appeal by Title IV-D responsible relatives. If the appellant is an Illinois resident, the hearing shall be conducted in the appellant's county of residence. If the appellant is not an Illinois resident but the client is an Illinois resident, the hearing shall be conducted in the client's county of residence. If neither the appellant nor the client is an Illinois resident, the hearing shall be conducted in the appropriate regional office of the Division of Child Support Enforcement. In any event, the hearing may be conducted in a county acceptable to the appellant, the client, and the Division of Child Support Enforcement. If a party is outside the State, he may, in a manner consistent with Section 11-8.2 of the Public Aid Code [305 ILCS 5/11-8.2] (444-Rev.--Stat.--1997--ch.--23,--par.--44-8-2), present his case through depositions and witnesses. In addition, a party may request to participate in the hearing by telephone, at his own expense.

E) Documents certified by a clerk of court or a Title IV-D agency shall be admitted into evidence without further proof. (Refer to Section 104.23 for admission of other evidence.)

F) In addition to the appellant, the Bureau of Child Support Enforcement or Title IV-D client may request and receive a continuance for good cause shown (e.g., illness or other circumstance which prevent a party from continuing in the normal course of the hearing).

G) A decision on appeal shall be given to the IV-D client and responsible relative within 60 days of the Department's receipt of the appeal unless additional time is required for a proper decision due to the complexity or unavailability of relevant evidence, and the IV-D client and responsible relative will be notified of the length of the extension.

c) A hearing to vacate registration or to modify the administrative income order for withholding notice of filed with the Department shall consider only matters which would be available to the responsible relative as defenses in a civil action in Illinois to enforce a foreign money judgment (such as, payment, partial payment, or identification of the party against whom the judgment was entered). If the responsible relative shows the Department that an appeal from the registered support order is pending or will be taken in the court or administrative body of the jurisdiction which originally entered the order, or that a stay of execution has been granted, the Department shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the stay order is vacated.

(Source: Amended at 21 Ill. Reg. effective

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Section 104.104 Conduct of Other Hearings

a) Hearings on petitions to contest ~~stay service of an administrative order for withholding or notice of delinquency or to contest immediate service of such order~~, or to modify, suspend, or terminate, or correct a term contained in an administrative income order for withholding notice, shall be governed by Section 104.102, except that subsections (a)(2) and (c) shall not apply, and the following terms as used therein are redefined:

- 1) "administrative support order" shall mean an administrative income order for withholding notice of delinquency or notice for immediate withholding.
- 2) "liability" shall mean the accuracy of the income withholding notice for immediate withholding, or the accuracy of the notice of delinquency amount stated in the income withholding notice based upon the administrative support order for withholding, or the force and effect to be given to such income withholding notice order, each as referred to for judicial orders for withholding in 89 Ill. Adm. Code 160.75(d), (e) and (j).

b) The Department shall limit any relief granted to the types of relief authorized for use within judicial orders for withholding in 89 Ill. Adm. Code 160.75(d), (e) and (j) ~~160.75(e), (f), (g), (h) and (i)~~.

(Source: Amended at 21 Ill. Reg. 14077, effective 1/1/85)

SUBPART C: MEDICAL VENDOR HEARINGS

Section 104.209 Notice of Intent to Certify Past-Due Support Owed by a Responsible Relative to, or Failure to Comply with a Subpoena or Warrant from, to a State Licensing Agency and to Take Disciplinary Action

If the Department intends to certify past-due support owed by a responsible relative to a State licensing agency or failure to comply with a subpoena or warrant and the licensing agency intends to take disciplinary action, the Department and the licensing agency shall notify the responsible relative in writing, setting forth:

- a) the reasons for the intended actions;
- b) a statement of the right to request a hearing;
- c) a statement of the time, place and nature of the hearing, if one is requested;
- d) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- e) a reference to the Sections of the statutes and rules involved; and
- f) a statement of the right to prevent certification and disciplinary action by payment of the past-due support in full or by entering into a payment plan acceptable to the Department, or in cases involving

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failure to comply with a subpoena or warrant, by complying with the subpoena or warrant.

(Source: Amended at 21 Ill. Reg. 14077, effective 1/1/85)

Section 104.210 Right to Hearing

a) An entity may request a hearing within 10 days after the entity's receipt of the Department's notice of:

- 1) the Department's decision to deny an application (as provided in Section 104.204);
- 2) the Department's intent to recover money (as provided in Section 104.206);
- 3) the Department's intent to terminate or suspend a vendor's eligibility or terminate (or not renew) a vendor's provider agreement (as provided in Section 104.208); or
- 4) the Department's intent to certify past-due support owed by a responsible relative to, or failure to comply with a subpoena or warrant from, to a State licensing agency and the licensing agency's intent to take disciplinary action (as provided in Section 104.209).

b) A request for hearing must be received by the Department within 10 days of the date on which the vendor received the Department's notice.

c) This request must be in writing and must contain a brief statement of the basis upon which the Department's action is being challenged.

d) If such a request is not received within 10 days, or is received but later withdrawn, the Department's decision and the grounds asserted as the basis therefor in the notice shall be a final and binding administrative determination.

e) In actions initiated pursuant to Section 104.206 or 104.208(b), if a vendor requests a hearing, such a request shall not delay the effective date of action set forth in the Notice. In all other actions initiated pursuant to Sections 104.204 or 104.208(a) or (d), the action shall not take place until the final administrative decision has been issued.

f) A long term care facility may request a hearing within 60 days after receipt of the Department's notice on any action initiated pursuant to Section 104.208(c) or (d). For a nursing home (not an ICF/MR facility), such request shall not delay the effective date of action set forth in the notice pursuant to Section 104.208(c).

(Source: Amended at 21 Ill. Reg. 14077, effective 1/1/85)

Section 104.213 Demand for Judicial Determination of the Existence of the Father and Child Relationship Jury-Trial-in-Contested-Paternity-Hearings

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- a) A respondent in a contested paternity hearing may file a demand in writing for a judicial determination of the existence of the father and child relationship ~~jury-trial~~. This demand must be filed no later than 28 days after receipt of the notice served pursuant to Section 104.207.
- b) In hearings in which such a demand is filed, the Department shall retain jurisdiction over the respondent until genetic tests are ordered pursuant to Section 104.249 and the results have been received. The Department will refer for judicial action in Circuit Court any matter in which a demand for judicial determination of the existence of the father and child relationship ~~jury-trial~~ has been timely filed.

(Source: Amended at 21 Ill. Reg. 149, effective 1/4/97)

Section 104.221 Issues at Hearings

- a) The sole issue at a hearing where the basis for denial of an application pursuant to 89 Ill. Adm. Code 140.14(d) is that the vendor does not have a necessary license, certificate or authorization shall be whether the vendor has such a license, certificate or authorization.
- b) The sole issue at a hearing where the basis of the denial of an application is as set forth in 89 Ill. Adm. Code 140.14(b) shall be whether the vendor has demonstrated, according to the factors listed in that Section, in light of the prior activities, that he should be admitted to the Medical Assistance Program.
- c) The sole issue at a hearing where the basis for termination is as set forth in 89 Ill. Adm. Code 140.16(a)(2) shall be whether the appropriate licensing, certifying or authorizing agency has determined that the vendor does not have a necessary license, certification or authorization.
- d) The sole issue at a hearing requested by a previously suspended vendor that is being terminated pursuant to 89 Ill. Adm. Code 140.19(b) shall be whether the vendor has corrected the deficiencies on which the suspension was based.
- e) At a hearing conducted pursuant to Subpart D of this Part, the sole relevant time with respect to the existence of the violations of the Department's requirements alleged in the notice shall be the date or dates in the notice.
- f) The only issues at a hearing initiated pursuant to Section 104.209 are whether the responsible relative has or is applying for a license, the amount, if any, of delinquent child support owed pursuant to a support order entered by a court or administrative body, and whether the responsible relative is more than 30 days delinquent, and, if applicable, whether the responsible relative failed to comply with a subpoena or warrant.

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- g) The only issue at a hearing initiated pursuant to 89 Ill. Adm. Code 140.16(c) is whether the vendor is not in compliance with State income tax requirements, child support requirements of Article X of the Public Aid Code, or educational loans guaranteed by the Illinois Student Assistance Commission.

(Source: Amended at 21 Ill. Reg. 149, effective 1/4/97)

Section 104.246 Evidence at Hearings

- a) The vendor may introduce evidence at the hearing that was not made available to the Department at the time the application or request for special permission was denied. If additional evidence is introduced at the hearing and the hearing officer determines that the vendor did not demonstrate he should be admitted based on the evidence available at the time the application or request for special permission was denied, but would have so demonstrated had the additional evidence at the hearing been available, the hearing shall be remanded to the Department for a new decision which considers such additional evidence. If additional evidence is introduced at the hearing and the hearing officer determines that the vendor would not have demonstrated that he should be admitted to the Medical Assistance Program or granted special permission even if such additional evidence had been considered, the recommendation shall be to uphold the Department's decision.
- b) Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The rules of evidence and privilege as applied in civil cases in the Circuit Courts of this State shall be followed. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of the type commonly relied upon by reasonably prudent men in the conduct of their affairs. When the admissibility of evidence is in dispute and depends upon fairly arguable interpretations of law, such evidence shall be admitted. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form. Any party may submit evidence in rebuttal or surrebutal.
- c) Summaries of voluminous documents may be admitted into evidence. The document summarized need not itself be admitted into evidence. Copies of the document need not be provided so long as all parties are accorded a reasonable opportunity to inspect the document summarized and no substantial injustice results.
- d) If the hearing is related in whole or in part to the Department's intent to recover money and the Department's recovery is based on sampling and extrapolation, the vendor may:

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- 1) present evidence to show that the sample used by the Department was invalid and, therefore, should not be used to project the overpayments identified in the sample to total billings for the audit period; or
 - 2) the vendor may also conduct an audit of 100% of the medical records of payments received during the audit period and present the results of such an audit at the hearing. Any such audit should demonstrate that the vendor's records for the unaudited services provided during the audit period were in compliance with the regulations, provider handbooks and other written requirements of the Department. The vendor should be prepared to submit supporting documentation to demonstrate this compliance.
- e) In contested hearings to establish paternity under 89 Ill. Adm. Code 160.61(c), certified copies of bills for costs incurred for pregnancy and childbirth shall be admitted into evidence without foundation testimony or other proof of authenticity or accuracy.

(Source: Amended at 21 Ill. Reg. 14989, effective 1/1/89)

DEPARTMENT OF PUBLIC HEALTH

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- 1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 350
- 3) Section Numbers: Adopted Action: 350.625 New Section
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective Date of Rules: November 15, 1997
- 6) Does this Rulemaking Contain an Automatic Repeal Date? No
- 7) Does this Rulemaking Contain Any Incorporations By Reference? No
- 8) Date Filed in Agency's Principal Office: November 15, 1997
- 9) Date Notice(s) of Proposal was Published in Illinois Register: February 14, 1997 - 21 Ill. Reg. 1798
- 10) Has the Joint Committee on Administrative Rules issued a Statement of Objections to this/these Rules? No
- 11) Difference Between Proposal and Final Version: The following changes were made in response to comments received during the first notice or public comment period:
 1. In line 320, "and" was changed to "or".
 2. In line 321, "Rehabilitation" was changed to "Human".
 3. In line 322, "all" was added after "for".
 4. In line 323, "who are not developmentally" was deleted.
 5. Lines 324-327 were deleted and the following was added: "and for individuals 60 years of age or older who are developmentally disabled or have a severe mental".

The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:

In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.

- 12) Have all the changes agreed upon by the Agency and the Joint Committee

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been made as indicated in the agreement letter issued by the Joint Committee? The Department has made all the changes to which it agreed with the Joint Committee.

- 13) Will the Rules Replace an Emergency Rule Currently in Effect? No
- 14) Are there any other Amendments Pending on this Part? Yes

Section Numbers	Proposed Action	Ill. Reg. Citation
350.315	New Section	21 Ill. Reg. 6739
350.681	Amendments	21 Ill. Reg. 3475
350.683	Amendments	21 Ill. Reg. 3475
350.690	Amendments	21 Ill. Reg. 6739
350.690	Amendments	21 Ill. Reg. 6739
350.690	Amendments	21 Ill. Reg. 6739

- 15) Summary and Purpose of Rules: Part 350 is being amended in response to P.A. 89-21 (S.B. 465, effective January 1, 1996), which amended the Nursing Home Care Act to require all persons seeking admission to a nursing facility to be screened prior to admission to determine the need for nursing facility services, regardless of income, assets or funding source. Screening will be accomplished by the Department on Aging for individuals 60 years of age or older who are not developmentally disabled or do not have a severe mental illness; by the Department of Human Services for individuals 18-59 years of age and for individuals 60 years of age or older who are developmentally disabled or have a severe mental illness; by the Department of Public Aid for individuals who seek eligibility for medical assistance from the medical assistance program under the Illinois Public Aid Code.

- 16) Information and Questions regarding this Adopted Rulemaking shall be directed to:

Ms. Gail DeVito
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
217/782-2043

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 350

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
350.110	General Requirements
350.120	Application for License
350.130	Licensee
350.140	Issuance of an Initial License for a New Facility
350.150	Issuance of an Initial License Due to a Change of Ownership
350.160	Issuance of a Renewal License
350.165	Criteria for Adverse License Actions
350.170	Denial of Initial License
350.175	Denial of Renewal of License
350.180	Revocation of License
350.190	Experimental Program Conflicting With Requirements
350.200	Inspections, Surveys, Evaluations and Consultation
350.210	Filing an Annual Attested Financial Statement
350.220	Information to Be Made Available to the Public By the Department
350.230	Information to Be Made Available to the Public By the Licensee
350.240	Municipal Licensing
350.250	Ownership Disclosure
350.260	Issuance of Conditional Licenses
350.270	Monitor and Receivership
350.271	Presentation of Findings
350.272	Determination to Issue a Notice of Violation or Administrative Warning
350.274	Determination of the Level of a Violation
350.276	Notice of Violation
350.277	Administrative Warning
350.278	Plans of Correction
350.280	Reports of Correction
350.282	Conditions for Assessment of Penalties
350.284	Calculation of Penalties
350.286	Determination to Assess Penalties
350.288	Reduction or Waiver of Penalties
350.290	Quarterly List of Violators
350.300	Alcoholism Treatment Programs In Long-Term Care Facilities
350.310	Department May Survey Facilities Formerly Licensed
350.320	Waivers
350.330	Definitions
350.340	Incorporated and Referenced Materials

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SUBPART B: ADMINISTRATION

Section
350.510 Administrator

SUBPART C: POLICIES

Section
350.610 Management Policies
350.620 Resident Care Policies
350.625 Determination of Need Screening
350.630 Admission and Discharge Policies
350.640 Contract Between Resident and Facility
350.650 Residents' Advisory Council
350.660 General Policies
350.670 Personnel Policies
350.675 Initial Health Evaluation for Employees
350.680 Developmental Disabilities Aides
350.681 Health Care Worker Background Check
350.683 Registry of Developmental Disabilities Aides
350.685 Student Interns
350.690 Disaster Preparedness
350.690 Serious Incidents and Accidents

SUBPART D: PERSONNEL

Section
350.810 Personnel
350.820 Consultation Services
350.830 Personnel Policies

SUBPART E: RESIDENT LIVING SERVICES

Section
350.1010 Service Programs
350.1020 Psychological Services
350.1030 Social Services
350.1040 Speech Pathology and Audiology Services
350.1050 Recreational and Activities Services
350.1060 Training and Habilitation Services
350.1070 Training and Habilitation Staff
350.1080 Restraints
350.1082 Nonemergency Use of Physical Restraints
350.1084 Emergency Use of Physical Restraints
350.1086 Unnecessary, Psychotropic and Antipsychotic Drugs

SUBPART F: HEALTH SERVICES

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Section
350.1210 Health Services
350.1220 Physician Services
350.1225 Tuberculin Skin Test Procedures
350.1230 Nursing Services
350.1235 Life-Sustaining Treatments
350.1240 Dental Services
350.1250 Physical and Occupational Therapy Services

SUBPART G: MEDICATIONS

Section
350.1410 Medication Policies and Procedures
350.1420 Conformance with Physician's Orders
350.1430 Administration of Medication
350.1440 Labeling and Storage
350.1450 Control of Narcotics and Legend Drugs

SUBPART H: RESIDENT AND FACILITY RECORDS

Section
350.1610 Resident Record Requirements
350.1620 Content of Medical Records
350.1630 Confidentiality of Resident's Records
350.1640 Records Pertaining to Residents' Property
350.1650 Retention and Transfer of Resident Records
350.1660 Other Resident Record Requirements
350.1670 Staff Responsibility for Medical Records
350.1680 Retention of Facility Records
350.1690 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section
350.1810 Director of Food Services
350.1820 Dietary Staff in Addition to Director of Food Services
350.1830 Hygiene of Dietary Staff
350.1840 Diet Orders
350.1850 Adequacy of Diet and Meal Pattern
350.1860 Therapeutic Diets
350.1870 Scheduling Meals
350.1880 Menu Planning
350.1890 Food Preparation and Service
350.1900 Food Handling Sanitation
350.1910 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

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Section
350.2010
350.2020
350.2030

Maintenance
Housekeeping
Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
350.2210
350.2220

Furnishings
Equipment and Supplies

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section
350.2410
350.2420
350.2430
350.2440

Codes
Water Supply
Sewage Disposal
Plumbing

SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section
350.2610
350.2620
350.2630
350.2640
350.2650
350.2660
350.2670
350.2680
350.2690
350.2700
350.2710
350.2720
350.2730
350.2740

Applicability of These Standards
Codes and Standards
Preparation of Drawings and Specifications
Site
Administration and Public Areas
Nursing Unit
Dining, Living, Activities Rooms
Therapy and Personal Care
Service Departments
General Building Requirements
Structural
Mechanical Systems
Plumbing Systems
Electrical Systems

SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section
350.2910
350.2920
350.2930
350.2940
350.2950
350.2960

Applicability
Codes and Standards
Preparation of Drawings and Specifications
Site
Administration and Public Areas
Nursing Unit

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350.2970
350.2980
350.2990
350.3000
350.3010
350.3020
350.3030
350.3040

Living, Dining, Activities Rooms
Treatment and Personal Care
Service Departments
General Building Requirements
Structural
Mechanical Systems
Plumbing Systems
Electrical Requirements

SUBPART O: RESIDENT'S RIGHTS

Section
350.3210
350.3220
350.3230
350.3240
350.3250
350.3260
350.3270
350.3280
350.3290
350.3300
350.3310
350.3320
350.3330

General
Medical and Personal Care Program
Restraints
Abuse and Neglect
Communication and Visitation
Residents' Funds
Residents' Advisory Council
Contract With Facility
Private Right of Action
Transfer or Discharge
Complaint Procedures
Confidentiality
Facility Implementation

SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED OF 16 BEDS OR LESS

Section
350.3710
350.3720
350.3730
350.3740
350.3750
350.3760
350.3770
350.3780
350.3790
350.3800
350.3810
350.3820
350.3830
350.3840
350.3850
350.3860
350.3870
350.3880

Applicability of Other Provisions of this Part
Administration
Admission and Discharge Policies
Personnel
Consultation Services and Nursing Services
Medication Policies
Food Services
Codes and Standards
Administration and Public Areas
Bedrooms
Nurses Station
Bath and Toilet Rooms
Utility Rooms
Living, Dining, Activity Rooms
Therapy and Personal Care
Kitchen
Laundry Room
General Building Requirements

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350.3890	Corridors
350.3900	Special Care Room
350.3910	Exit Facilities and Subdivision of Floor Areas
350.3920	Stairways, Vertical Openings and Doorways
350.3930	Hazardous Areas and Combustible Storage
350.3940	Mechanical Systems
350.3950	Heating, Cooling, and Ventilating Systems
350.3960	Plumbing Systems
350.3970	Electrical Systems
350.3980	Fire Alarm and Detection System
350.3990	Emergency Electrical System
350.4000	Fire Protection
350.4010	Construction Types
350.4020	Equivalencies
350.4030	New Construction Requirements

SUBPART Q: DAY CARE PROGRAMS

Section	Day Care in Long-Term Care Facilities
350.4210	Day Care in Long-Term Care Facilities
APPENDIX A	Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
APPENDIX B	Federal Requirements Regarding Residents' Rights
APPENDIX C	Seismic Zone Map
APPENDIX D	Forms for Day Care in Long-Term Care Facilities
APPENDIX E	Guidelines for the Use of Various Drugs
TABLE A	Sound Transmission Limitations in New Intermediate Care Facilities for the Developmentally Disabled
TABLE B	Pressure Relationships and Ventilation Rate of Certain Areas for the New Intermediate Care Facilities for the Developmentally Disabled
TABLE C	Construction Types and Sprinkler Requirements for Existing Intermediate Care Facilities for the Developmentally Disabled
TABLE D	Food Service Sanitation Rules and Regulations, 77 Ill. Adm. Code 750, 1983 Applicable for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less
TABLE E	Construction Types and Sprinkler Requirements for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less
TABLE F	Disaster Preparedness Parameters - Relative Humidity and Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 495, effective March 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1, effective

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July 28, 1980; amended at 5 Ill. Reg. 1657, effective February 4, 1981; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6453, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14544, effective November 8, 1982; amended at 6 Ill. Reg. 14675, effective November 15, 1982; amended at 6 Ill. Reg. 15556, effective December 15, 1982; amended at 7 Ill. Reg. 278, effective December 23, 1982; amended at 7 Ill. Reg. 1919 and 745, effective January 28, 1983; amended at 7 Ill. Reg. 7963, effective July 1, 1983; amended at 7 Ill. Reg. 15817, effective November 15, 1983; amended at 7 Ill. Reg. 16984, effective December 14, 1983; amended at 8 Ill. Reg. 15574 and 15578 and 15581, effective August 15, 1984; amended at 8 Ill. Reg. 15935, effective August 17, 1984; amended at 8 Ill. Reg. 16980, effective September 5, 1984; codified at 8 Ill. Reg. 19806; amended at 8 Ill. Reg. 24214, effective November 29, 1984; amended at 8 Ill. Reg. 24680, effective December 7, 1984; amended at 9 Ill. Reg. 142, effective December 26, 1984; amended at 9 Ill. Reg. 331, effective December 28, 1984; amended at 9 Ill. Reg. 2964, effective February 25, 1985; amended at 9 Ill. Reg. 10876, effective July 1, 1985; amended at 11 Ill. Reg. 14795, effective October 1, 1987; amended at 11 Ill. Reg. 16830, effective October 1, 1987; amended at 12 Ill. Reg. 979, effective December 24, 1987; amended at 12 Ill. Reg. 16838, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18705, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6040, effective April 17, 1989; amended at 13 Ill. Reg. 19451, effective December 1, 1989; amended at 14 Ill. Reg. 14876, effective October 1, 1990; amended at 15 Ill. Reg. 466, effective January 1, 1991; amended at 16 Ill. Reg. 594, effective January 1, 1992; amended at 16 Ill. Reg. 13910, effective September 1, 1992; amended at 17 Ill. Reg. 2351, effective February 10, 1993; emergency amendment at 17 Ill. Reg. 2373, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7948, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; emergency amendment at 17 Ill. Reg. 9105, effective June 7, 1993, for a maximum of 150 days; emergency expired on November 4, 1993; amended at 17 Ill. Reg. 15056, effective September 3, 1993; amended at 17 Ill. Reg. 16158, effective January 1, 1994; amended at 17 Ill. Reg. 19210, effective October 26, 1993; amended at 17 Ill. Reg. 19517, effective November 4, 1993; amended at 17 Ill. Reg. 21017, effective November 20, 1993; amended at 18 Ill. Reg. 1432, effective January 14, 1994; amended at 18 Ill. Reg. 15789, effective October 15, 1994; amended at 19 Ill. Reg. 11481, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 512, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10065, effective July 15, 1996; amended at 20 Ill. Reg. 12049, effective September 10, 1996; amended at 21 Ill. Reg. 14340, effective

SUBPART C: POLICIES

Section 350.625 Determination of Need Screening

a) For the purpose of this Section only, a nursing facility is any bed

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NOTICE OF ADOPTED AMENDMENTS

licensed as a skilled nursing or intermediate care facility bed, or a location certified to participate in the Medicare program under Title XVIII of the Social Security Act or Medicaid program under Title XIX of the Social Security Act.

b) All persons seeking admission to a nursing facility must be screened to determine the need for nursing facility services prior to being admitted, regardless of income, assets, or funding source. (Section 2-201.5 of the Act) A screening assessment is not required provided one of the conditions in Section 140.642(c) of the Department of Public Aid's rules entitled "Medical Payment" (89 Ill. Adm. Code 140.642(c)) is met.

c) Any person who seeks to become eligible for medical assistance from the Medical Assistance program under the Illinois Public Aid Code to pay for long-term care services while residing in a facility shall be screened in accordance with 89 Ill. Adm. Code 140.642(b)(4). (Section 2-201.5 of the Act)

d) Screening shall be administered through procedures established by administrative rule by the agency responsible for screening. (Section 2-201.5 of the Act) The Illinois Department on Aging is responsible for the screening required in subsection (b) of this Section for individuals 60 years of age or older who are not developmentally disabled or do not have a severe mental illness. The Illinois Department of Human Services is responsible for the screening required in subsection (b) of this Section for all individuals 18 through 59 years of age and for individuals 60 years of age or older who are developmentally disabled or have a severe mental illness. The Illinois Department of Public Aid or its designee is responsible for the screening required in subsection (c) of this Section.

(Source: Added at 21 Ill. Reg. 14090, effective 4/1/99)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities

2) Code Citation: 77 Ill. Adm. Code 300

3) Section Numbers: Adopted Action:
300.615 New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective Date of Rules: November 15, 1997

6) Does this Rulemaking Contain an Automatic Repeal Date? No

7) Does this Rulemaking Contain Any Incorporations By Reference? No

8) Date Filed in Agency's Principal Office: November 15, 1997

9) Date Notice(s) of Proposal was Published in Illinois Register: February 14, 1997 - 21 Ill. Reg. 1808

10) Has the Joint Committee on Administrative Rules issued a Statement of Objections to this/these Rules? No

11) Difference Between Proposal and Final Version: The following changes were made in response to comments received during the first notice or public comment period:

No changes were made during the First Notice period.

The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:

1. In line 307, "and" was changed to "or".

2. In line 308, "Rehabilitation" was changed to "Human".

3. In line 309, "all" was added after "for".

4. Lines 310-314 were changed to "individuals 18 through 59 years of age and for individuals 60 years of age or older who are developmentally disabled or have a severe mental".

In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint

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Committee? The Department has made all the changes to which it agreed with the Joint Committee.

13) Will the Rules Replace an Emergency Rule Currently in Effect? No

14) Are there any other Amendments Pending on this Part? Yes

Section Numbers	Proposed Action	Ill. Reg. Citation
300.315	New Section	21 Ill. Reg. 6786
300.661	Amendments	21 Ill. Reg. 3527
300.663	Amendments	21 Ill. Reg. 3527
300.670	Amendments	21 Ill. Reg. 6786
300.Table D	Amendments	21 Ill. Reg. 6786

15) Summary and Purpose of Rules: Part 300 is being amended in response to P.A. 89-21 (S.B. 465, effective January 1, 1996), which amended the Nursing Home Care Act to require all persons seeking admission to a nursing facility to be screened prior to admission to determine the need for nursing facility services, regardless of income, assets or funding source. Screening will be accomplished by the Department on Aging for individuals 60 years of age or older who are not developmentally disabled or do not have a severe mental illness; by the Department of Human Services for individuals 18-59 years of age and individuals 60 years of age or older who are developmentally disabled or have a severe mental illness. The Department of Public Aid is responsible for screening individuals who seek eligibility for medical assistance from the Medical Assistance Program under the Illinois Public Aid Code.

16) Information and Questions regarding this Adopted Rulemaking shall be directed to:

Ms. Gail DeVito
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 300

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
300.110	General Requirements
300.120	Application for License
300.130	Licensee
300.140	Issuance of an Initial License for a New Facility
300.150	Issuance of an Initial License Due to a Change of Ownership
300.160	Issuance of a Renewal License
300.165	Criteria for Adverse License Actions
300.170	Denial of Initial License
300.175	Denial of Renewal of License
300.180	Revocation of License
300.190	Experimental Program Conflicting With Requirements
300.200	Inspections, Surveys, Evaluations and Consultation
300.210	Filing an Annual Attested Financial Statement
300.220	Information to Be Made Available to the Public By the Department
300.230	Information to Be Made Available to the Public By the Licensee
300.240	Municipal Licensing
300.250	Ownership Disclosure
300.260	Issuance of Conditional Licenses
300.270	Monitor and Receivership
300.271	Presentation of Findings
300.272	Determination to Issue a Notice of Violation or Administrative Warning
300.274	Determination of the Level of a Violation
300.276	Notice of Violation
300.277	Administrative Warning
300.278	Plans of Correction
300.280	Reports of Correction
300.282	Conditions for Assessment of Penalties
300.284	Calculation of Penalties
300.286	Determination to Assess Penalties
300.288	Reduction or Waiver of Penalties
300.290	Quarterly List of Violators
300.300	Alcoholism Treatment Programs In Long-Term Care Facilities
300.310	Department May Survey Facilities Formerly Licensed
300.320	Waivers
300.330	Definitions
300.340	Incorporated and Referenced Materials

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SUBPART B: ADMINISTRATION

Section
300.510 Administrator

SUBPART C: POLICIES

Section
300.610 Resident Care Policies
300.615 Determination of Need Screening
300.620 Admission and Discharge Policies
300.630 Contract Between Resident and Facility
300.640 Residents' Advisory Council
300.650 Personnel Policies
300.655 Initial Health Evaluation for Employees
300.660 Nursing Assistants
300.661 Health Care Worker Background Check
300.663 Registry of Certified Nurse Aides
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300.670 Disaster Preparedness
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Day Care in Long-Term Care Facilities

Section

300.3710

APPENDIX A Interpretation, Components, and Illustrative Services for Intermediate Care Facilities and Skilled Nursing Facilities
 APPENDIX B Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)

APPENDIX C Federal Requirements Regarding Patients'/Residents' Rights
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 TABLE A Sound Transmission Limitations in New Skilled Nursing and Intermediate Care Facilities

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TABLE C Construction Types and Sprinkler Requirements for Existing Skilled Nursing Facilities/Intermediate Care Facilities

TABLE D Disaster Preparedness Parameters - Relative Humidity and Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 1066, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 311, effective July 28, 1980; emergency amendment at 6 Ill. Reg. 3229, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6454, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 11631, effective September 14, 1982; amended at 6 Ill. Reg. 14550 and 14554, effective November 8, 1982; amended at 6 Ill. Reg. 14684, effective November 15, 1982; amended at 7 Ill. Reg. 285, effective December 22, 1982; amended at 7 Ill. Reg. 1972, effective January 28, 1983; amended at 7 Ill. Reg. 8579, effective July 11, 1983; amended at 7 Ill. Reg. 15831, effective November 10, 1983; amended at 7 Ill. Reg. 15864, effective November 15, 1983; amended at 7 Ill. Reg. 16992, effective December 14, 1983; amended at 8 Ill. Reg. 15599, 15603, and 15606, effective August 15, 1984; amended at 8 Ill. Reg. 15947, effective August 17,

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1984; amended at 8 Ill. Reg. 16999, effective September 5, 1984; codified at 8 Ill. Reg. 19766; amended at 8 Ill. Reg. 24186, effective November 29, 1984; amended at 8 Ill. Reg. 24668, effective December 7, 1984; amended at 8 Ill. Reg. 25102, effective December 14, 1984; amended at 9 Ill. Reg. 132, effective December 26, 1984; amended at 9 Ill. Reg. 4087, effective March 15, 1985; amended at 9 Ill. Reg. 11049, effective July 1, 1985; amended at 11 Ill. Reg. 16927, effective October 1, 1987; amended at 12 Ill. Reg. 1052, effective December 24, 1987; amended at 12 Ill. Reg. 16811, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18477, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 4684, effective March 24, 1989; amended at 13 Ill. Reg. 5134, effective April 1, 1989; amended at 13 Ill. Reg. 20089, effective December 1, 1989; amended at 14 Ill. Reg. 14950, effective October 1, 1990; amended at 15 Ill. Reg. 554, effective January 1, 1991; amended at 16 Ill. Reg. 681, effective January 1, 1992; amended at 16 Ill. Reg. 5977, effective March 27, 1992; amended at 16 Ill. Reg. 17089, effective November 3, 1992; emergency amendment at 17 Ill. Reg. 2420, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8026, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15106, effective September 3, 1993; amended at 17 Ill. Reg. 16194, effective January 1, 1994; amended at 17 Ill. Reg. 19279, effective October 26, 1993; amended at 17 Ill. Reg. 19604, effective November 4, 1993; amended at 17 Ill. Reg. 21058, effective November 20, 1993; amended at 18 Ill. Reg. 1491, effective January 14, 1994; amended at 18 Ill. Reg. 15868, effective October 15, 1994; amended at 19 Ill. Reg. 11600, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 567, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10142, effective July 15, 1996; amended at 20 Ill. Reg. 12208, effective September 10, 1996; amended at 21 Ill. Reg. 1330, effective

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SUBPART C: POLICIES

Section 300.615 Determination of Need Screening

- a) For the purpose of this Section only, a nursing facility is any bed licensed as a skilled nursing or intermediate care facility bed, or a location certified to participate in the Medicare program under Title XVIII of the Social Security Act or Medicaid program under Title XIX of the Social Security Act.
- b) All persons seeking admission to a nursing facility must be screened to determine the need for nursing facility services prior to being admitted, regardless of income, assets, or funding source. (Section 2-201.5 of the Act) A screening assessment is not required provided one of the conditions in Section 140.642(c) of the Department of Public Aid's rules entitled "Medical Payment" (89 Ill. Adm. Code 140.642(c)) is met.

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- c) Any person who seeks to become eligible for medical assistance from the Medical Assistance program under the Illinois Public Aid Code to pay for long-term care services while residing in a facility shall be screened in accordance with 89 Ill. Adm. Code 140.642(b)(4). (Section 2-201.5 of the Act)
- d) Screening shall be administered through procedures established by administrative rule by the agency responsible for screening. (Section 2-201.5 of the Act) The Illinois Department on Aging is responsible for the screening required in subsection (b) of this Section for individuals 60 years of age or older who are not developmentally disabled or do not have a severe mental illness. The Illinois Department of Human Services is responsible for the screening required in subsection (b) of this Section for all individuals 18 through 59 years of age and for individuals 60 years of age or older who are developmentally disabled or have a severe mental illness. The Illinois Department of Public Aid or its designee is responsible for the screening required in subsection (c) of this Section.

(Source: Added at 21 Ill. Reg. 15000, effective 01/01/97)

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- 1) Heading of the Part: Structural Pest Control Code
- 2) Code Citation: 77 Ill. Adm. Code 830
- 3) Section Numbers:
 830.10 Adopted Action:
 830.20 Amendment
 830.200 Amendment
 830.710 Amendment
 830.850 Amendment
 830.860 Amendment
 830.1000 New Section
 830.1100 New Section
- 4) Statutory Authority: Implementing and authorized by the Structural Pest Control Act [225 ILCS 235].
- 5) Effective Date of Amendments: November 10, 1997
- 6) Does this Rulemaking Contain an Automatic Repeal Date? No
- 7) Does this Rulemaking Contain any Incorporation by Reference? Yes
- 8) Date Filed in Agency's Principal Office: November 10, 1997
- 9) Date Notice of Proposed Rulemaking was Published in the Illinois Register: November 15, 1996; 20 Ill. Reg. 14724
- 10) Has the Joint Committee on Administrative Rules Issued a Statement of Objection to this Rulemaking: No
- 11) Difference Between Proposal and Final Version: The following language was added at the end of Section 830.1000(a):
- Certification for businesses that have pesticide storage units meeting the following specifications shall be submitted to the Department by February 1, 1998, or within 90 days after the effective date of an ordinance or regulation establishing or expanding a maximum setback zone or regulated recharge area, pursuant to Section 14.3 or 17.3 of the Environmental Protection Act.
- Section 830.1100(a)(2) has been modified to specify that the private water supplies wells being referred to are potable, private water supplies wells.
- Section 830.1100(b)(2) has been modified to allow 300 gallons, instead of 100 gallons as proposed, of pesticides to be stored at a structural pest control location at an given time.

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In Section 830.1100(b)(5)(B), the requirement that pesticide containers not be stacked more than two high on pallets has been changed to allow pesticide containers to be stacked up to seven feet off the floor.

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee? All changes agreed upon by the Department and the Joint Committee have been made as indicated in the agreement letter issued by the Joint Committee.

13) Will the Rulemaking Replace an Emergency Rule Currently in Effect? No

14) Are there any other Amendments Pending on this Part? No

15) Summary and Purpose of Amendments: A new Subpart has been added to the Structural Pest Control Code to establish requirements for protecting potable water supply well and groundwater at commercial structural pest control business locations where pesticides may be stored within setback zones and regulated recharge areas established under the Environmental Protection Act. These rules will place a limit on liquid storage, require secondary containment of liquid pesticides, provide containment specifications, establish a container/container inspection program, require the management of pesticide containers, and specify procedures for the closure of the storage site. New definitions will be added to explain groundwater regulation terms. A definition concerning use inconsistent with the label will be amended to reflect the federal definition as found in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Other amendments will make minor changes to the certification renewal requirements, classify violations of Section 830.310 and the new groundwater regulations as Type C violations, eliminate the need to store unmixed bait in the pesticide storage area, and provide an alternative to storing or disposing of pesticides placed under Stop Sale/Use Orders issued by the Department.

16) Information and Questions Regarding these Adopted Amendments shall be directed to:

Gail M. DeVito
Administrative Rules Coordinator
Division of Legal Services
535 West Jefferson
Springfield, IL 62761
(217)782-2043
E-mail: rules@dph.state.il.us

The full text of the Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER 0: PEST CONTROL

PART 830

STRUCTURAL PEST CONTROL CODE

SUBPART A: GENERAL

Section	Definitions
830.10	Referenced incorporated Materials
830.20	

SUBPART B: GENERAL REQUIREMENTS

Section	License Application for Commercial Structural Pest Control Business Location
830.100	
830.110	Registration Application for Non-Commercial Structural Pest Control Location
830.120	Application for Examination as a Certified Structural Pest Control Technician
830.130	Re-examination Applications
830.140	Application of Certified Technicians for Examination in Other Sub-categories
830.150	Processing (Repealed)
830.160	Approved Applications (Repealed)
830.170	Disapproved Applications (Repealed)
830.180	License and Registration Renewals
830.190	Change of Business Ownership
830.200	Certification Renewals
830.210	Late Filing Charge
830.220	Non-renewal of Technician Certificates
830.230	Certified Technician at Each Location
830.240	Change of Certified Technician at Place of Employment
830.250	Certificates of Insurance
830.260	Insurance Coverage
830.270	Supervision of a Non-certified Technician
830.280	Inspections and Investigations (Repealed)
830.290	Classification of Pesticides
830.300	Application for Certification in Illinois as a Structural Pest Control Technician by Reciprocity
830.310	Display of License, Registration and Certification
830.315	Procedures for Certification as a Structural Pest Control Technician in Wood Products Pest Control (Repealed)

SUBPART C: EXAMINATIONS

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Section
830.400 General Provisions
830.410 Examinations
830.420 Examination Schedules (Repealed)
830.430 Grades
830.440 Notification of Examination Results
830.450 Confidentiality of Examination Scores
830.460 Examinee's Review of Examination

SUBPART D: PEST CONTROL COURSES

Section
830.500 Application
830.510 Application (Repealed)
830.520 Instructors
830.530 Pest Control Course Description
830.540 Record of Completion
830.550 Pest Control Course Evaluation
830.560 Approval (Repealed)
830.570 Disapproval of an Application or Rescission of Approval (Repealed)

SUBPART E: PEST CONTROL TRAINING SEMINARS (RECERTIFICATION)

Section
830.600 Application
830.610 Application (Repealed)
830.620 Instructors
830.630 Pest Control Seminars
830.640 Record of Completion
830.650 Pest Control Seminar Evaluation
830.660 Approval (Repealed)
830.670 Disapproval of an Application or Rescission of Approval (Repealed)

SUBPART F: HEARINGS AND ADMINISTRATIVE FINES

Section
830.700 Hearings
830.710 Administrative Fines

SUBPART G: SAFE PESTICIDE STORAGE AND HANDLING

Section
830.800 General Safety Precautions
830.810 Misuse of Pesticides
830.820 Records
830.830 Pesticide Storage Area
830.840 Service Vehicles
830.850 Pesticide Storage Practices

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830.860 Orders to Stop Sale, Stop Use, Seize or Regulate Removal
830.870 Hazardous Incident Notification and Abatement

SUBPART H: BIRD CONTROL REQUIREMENTS

Section
830.880 Avicide Permit Requirements
830.885 Denial or Revocation of Avicide Permits
830.890 Bird Control Monitoring and Reporting Requirements
830.900 Bird Control Training Requirements

SUBPART I: GROUNDWATER PROTECTION

Section
830.1000 Scope and Applicability
830.1100 Protection of Potable Water Supplies

ILLUSTRATION A WARNING SIGN-PESTICIDE TREATMENT & VENTILATION
ILLUSTRATION B RESTRICTED USE PESTICIDE SIGN
TABLE A SCHEDULE OF ADMINISTRATIVE CIVIL FINES

AUTHORITY: Implementing and authorized by the Structural Pest Control Act [225 ILCS 235], Illinois Pesticide Act [415 ILCS 60] and in particular Section 3.2 [415 ILCS 60/3.2], Section 11(b) of the Illinois Endangered Species Protection Act [520 ILCS 10/11(b)], the Federal Migratory Bird Treaty Act (16 U.S.C. 703 et seq.), and Section 14.6 of the Environmental Protection Act [415 ILCS 5/14.6].

SOURCE: Adopted at 2 Ill. Reg. 19, p. 159, effective May 3, 1978; codified at 8 Ill. Reg. 18492; emergency amendment at 10 Ill. Reg. 17812, effective September 28, 1986, for a maximum of 150 days; emergency amendment expired on February 24, 1987; amended at 11 Ill. Reg. 7736, effective April 15, 1987; amended at 13 Ill. Reg. 2090, effective February 3, 1989; emergency amendments at 14 Ill. Reg. 1036, effective December 22, 1989, for a maximum of 150 days; emergency amendment expired on May 21, 1990; amended at 14 Ill. Reg. 12889, effective August 1, 1990; amended at 16 Ill. Reg. 11612, effective July 6, 1992; amended at 18 Ill. Reg. 14404, effective September 15, 1994; amended at 21 Ill. Reg. 15010, effective ~~May 1, 1994~~.

SUBPART A: GENERAL

Section 830.10 Definitions

In addition to the definitions contained in the Structural Pest Control Act [225 ILCS 235] ~~{iii--Rev--Stat--1991--ch--iii--127--par--2201-et-seq--}~~, the following definitions, when used herein, shall apply:

"Act" means the "Structural Pest Control Act [225 ILCS 235] ~~{iii--Rev--~~

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Stat--1991--ch--111-1/2--par--2201-et-seq-7."

"Active ingredient" means any ingredient which will prevent, destroy, repel, control or mitigate a pest.

"Applicant" means any person making an application for a license, registration, examination or certification.

"Avicide" means a pesticide used for bird control, other than a device, which is designed to kill birds when used in a manner consistent with its labeling.

"Back flow preventer or vacuum breaker device" means a device, approved by the Illinois Plumbing Code (77 Ill. Adm. Code 890) used to prevent backflow or backsiphonage of contaminated water or liquid into a water supply system.

"College or university course in related field" means three semester hours or four quarter hours of a college course in biological sciences, physics or chemistry.

"Community Water System" means a public water system which serves at least 15 service connections used by residents or regularly serves at least 25 residents for at least 60 days per year. (Section 9(a)(1) of the Illinois Groundwater Protection Act [415 ILCS 55/9(a)(1)])

"Crack and crevice treatment" means the application of small amounts of a pesticide directly into a crack, crevice, expansion joint, between different elements of construction, between equipment and floors, or into an opening that leads into voids such as hollow walls, equipment legs and bases, conduits, motor housings, junction or switch boxes, where insects may be present.

"Department" means the Illinois Department of Public Health.

"Existing storage unit" means a storage unit that was in operation or for which there was commencement of construction on or before the effective date of a regulated recharge regulation affecting the storage unit.

"FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act.

"File a renewal application" means the process of completing the renewal form and submitting it to the Department along with the applicable renewal fee as set forth in Section 9 of the Act and evidence either attached to the renewal form or on file with the Department which would indicate that the license, certification or registration renewal requirements of Sections 4(e) and 6 of the Act

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and Sections 830.180 and 830.200 of this Part have been met.

"Food area" means an area where food is handled, received, packaged, held, processed, prepared, or served.

"Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Section 3(g) of the Illinois Groundwater Protection Act [415 ILCS 55/3(g)])

"Insurance company authorized to transact business" means an insurance company which has been issued a Certificate of Authority by the Director of the Department of Insurance.

"Manner inconsistent with its labeling" means the use of--a--pesticide in--a--manner--not--permitted--by--the labeling, but does not include, unless--USEPA--or--the--pesticide--manufacturer--indicates--to--the--contrary via--written--statements--prior--to--the--treatment--that--such--use--would--not be--advisable--or--if--it--is--deleterious--to--man--or--his--environment,--the application--of--a--pesticide--which--will--eliminate--or--control--a--pest,--at a--dosage,--concentration--or--frequency--less--than--specified--on--the labeling--for--a--target--pest--not--identified--on--the--labeling--as--long--as the--application--site--is--addressed--and--the--labeling--does--not--prohibit the--user,--or--by--a--method--of--application--not--prohibited--by--the--labeling, germicides,--however,--shall--be--applied--in--accordance--with--the--product labeling,--unless--there--are--written--statements--from--the--manufacturer prior--to--treatment---that--indicates--that--another--use--is--more appropriate.

"Method" means any action or procedure used to determine the presence or absence of a pest.

"Pest control course" means an educational program which addresses the basic theoretical or practical knowledge of pesticides and their application, approved by the Department pursuant to Subpart D of this Part, and is equivalent to six months experience for original certification.

"Pest control specialist" means a person who has a degree from a recognized college or university in one or more fields related to structural pest control and/or pesticides or has a specialized area of interest pertaining to chemical manufacturing and/or research, chemistry, entomology, or environmental sanitation and engineering.

"Pest control training seminar" means a recertification training program which provides the technical and legal aspects of present structural pest control technology, approved by the Department pursuant to Subpart E of this Part.

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"Potable" means generally fit for human consumption in accordance with accepted water supply principles and practices. (Section 3(h) of the Illinois Groundwater Protection Act [415 ILCS 55/3(h)])

"Private Water System" means any supply which provides water for drinking, culinary, and sanitary purposes and serves an owner-occupied single family dwelling. (Section 9(a)(5) of the Illinois Groundwater Protection Act [415 ILCS 55/9(a)(5)])

"Public Water System" means a system for the provision to the public of piped water for human consumption, if the system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days per year. The term "public water system" includes any collection, treatment, storage or distribution facilities under control of the operator of such system and used primarily in connection with such system and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. (Section 9(a)(6) of the Illinois Groundwater Protection Act [415 ILCS 55/9(a)(6)])

"Purchasing group" means a purchaser of group insurance which group has registered with the Director of the Department of Insurance.

"Recognized college or university" means an educational institution which has been recognized or approved by the Board of Higher Education, or equivalent, in the State in which it is located; and/or an educational institution accredited by a regional accrediting association recognized by the Council on Post Secondary Accreditation. In either instance, the college or university must be authorized to confer a degree in the fields of Biological Sciences, Entomology, Zoology, or related fields.

"Regulated Recharge Area" means a compact geographic area, as determined by the Illinois Pollution Control Board, the geology of which renders a potable resource groundwater particularly susceptible to contamination. (Section 3(i) of the Illinois Groundwater Protection Act [415 ILCS 55/3(i)])

"Risk retention group" means an insurance company incorporated and licensed in one of the states of the United States and registered with the Director of the Department of Insurance.

"Secondary containment structure" means any structure used to contain liquid pesticides and prevent runoff or leaching into the groundwater.

"Service container" means any non-food container utilized to temporarily hold, store or transport a pesticide concentrate or registered ready-to-use product other than the original labeled

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container provided by the manufacturer, the measuring device or the application device.

"Setback zone" means a geographic area established under the Environmental Protection Act [415 ILCS 5] which, for the purposes of Subpart I of this Part, contains a potable water supply well and a storage unit, having a continuous boundary within which certain prohibitions or regulations for groundwater protection are applicable.

"Signal word" means a word or phrase found prominently displayed on the pesticide label which offers an indication of the toxicity and potential danger of a pesticide.

"Storage unit" means an area, structure, or any other mechanism used to store or accumulate pesticides for commercial application purposes.

"To use any registered pesticide in a manner inconsistent with its labeling" means to use any registered pesticide in a manner not permitted by the labeling, except that the term shall not include:

applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling, unless the labeling specifically prohibits deviation from the specified dosage, concentration or frequency;

applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling, unless the Administrator of the USEPA has required that the labeling specifically state that the pesticide may be used only for the pests specified on the labeling after the Administrator of the USEPA has determined that the use of the pesticide against other pests would cause unreasonable adverse effect on the environment;

employing any method of application not prohibited by the labeling unless the labeling specifically states that the product may be applied only by the methods specified on the labeling;

any use of a pesticide in conformance with Section 5, 18, or 24 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136(ee)); or

any use of a pesticide in a manner that the Administrator of the USEPA determines to be consistent with the purpose of FIFRA.

"Treatment period" means the period of time necessary for a room or area to remain closed to unauthorized individuals in order to allow an effective treatment and subsequent drying or settling of the pesticide

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in accordance with label directions or, in their absence, manufacturer's recommendations.
"USEPA" means the United States Environmental Protection Agency.

"Water well" means any excavation, except a monitoring well, that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial re-charge, or acquisition of groundwater.

"Work Site" means and includes any location at which pesticides are handled, mixed, stored, or applied.

(Source: Amended at 21 Ill. Reg. 15019, effective 8/1/97)

Section 830.20 Referenced Incorporated Materials

The following State and federal laws and State rules are referenced in this Part:

- a) The following State laws, rules, and codes are incorporated or are referenced in this Part:
 - 1) Illinois Pesticide Act [415 ILCS 60] (Section 830.710, Section 830.860, Section 830.880 and Section 830.885);
 - 2) Structural Pest Control Act [225 ILCS 235] (Section 830.10);
 - 3) Illinois Endangered Species Protection Act [520 ILCS 10] (Section 830.880);
 - 4) Illinois Groundwater Protection Act [415 ILCS 55] (Section 830.10 and Section 830.1100);
 - 5) Environmental Protection Act [415 ILCS 5] (Section 830.10, Section 830.1000 and Section 830.1100);
- b) The following State rules are referenced in this Part:
 - 1) Illinois Pesticide Act (8 Ill. Adm. Code 250) promulgated by the Illinois Department of Agriculture (Section 830.860);
 - 2) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) promulgated by the Illinois Department of Public Health (Section 830.700);
 - 3) Illinois Plumbing Code (77 Ill. Adm. Code 890) promulgated by the Illinois Department of Public Health (Section 830.800);
 - 4) Illinois List of Endangered and Threatened Fauna (17 Ill. Adm. Code 1010) promulgated by the Illinois Department of Natural Resources (Section 830.880);
 - 5) Existing Activities in A Setback Zone Or Regulated Recharge Area (35 Ill. Adm. Code 615) promulgated by the Illinois Pollution Control Board (Section 830.1000);
 - 6) New Activities in A Setback Zone Or Regulated Recharge Area (35 Ill. Adm. Code 616) promulgated by the Illinois Pollution Control

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Board (Section 830.1000);
Minimal Hazard Certification (35 Ill. Adm. Code 670) promulgated by the Illinois Pollution Control Board (Section 830.1000);

Cooperative Groundwater Protection Program (8 Ill. Adm. Code 257) promulgated by the Illinois Department of Agriculture (Section 830.1000).

- c) The following federal laws are referenced in this Part:
- 1) The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 et seq.) also referred to as the Federal Environmental Pesticide Control Act of 1972 (Section 830.10, Section 830.710 and Section 830.860);
 - 2) Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) (Section 830.890);
 - 3) Illinois Pesticide Act (8 Ill. Adm. Code 250) rules pertaining to pesticide control promulgated by the Illinois Department of Agriculture (Section 830.860);
 - 4) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) promulgated by the Illinois Department of Public Health (Section 830.700);
 - 5) Illinois Plumbing Code (77 Ill. Adm. Code 890) promulgated by the Illinois Department of Public Health (Section 830.800);
 - 6) The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 et seq.) also referred to as the Federal Environmental Pesticide Control Act of 1972 (Section 830.710 and Section 830.860);
 - 7) Illinois Endangered Species Protection Act (11 Rev. Stat. 1991 ch. 87 par. 931 et seq.) (520 ILCS 10) (Section 830.800);
 - 8) Illinois List of Endangered and Threatened Fauna (17 Ill. Adm. Code 1010) promulgated by the Illinois Department of Conservation (Section 830.880);
 - 9) Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) (Section 830.890);
- d) All incorporations by reference refer to the materials on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Amended at 21 Ill. Reg. 15019, effective NOV 1, 1997)

SUBPART B: GENERAL REQUIREMENTS
Section 830.200 Certification Renewals

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a) Renewal applications will be mailed to all certified technicians in possession of a valid structural pest control technician certificate at least 30 days prior to December 1 during the year of certification expiration, provided that the following items are on file with the Department by October 1 of that year:

- 1) A valid, current home address; and
 - 2) Verification of attendance at the required number of recertification seminars during the certification period.
- b) A certified technician who does not receive a renewal application pursuant to subsection (a) of this Section may obtain one by submitting a written request to the Department.
- c) Renewal applications shall be reviewed for accuracy by the certified technician. Any changes of employment, name, or home address shall be recorded where indicated ~~noted~~ on the ~~back-of-the~~ renewal application. If a renewal application is filed in a timely and sufficient manner, it will be processed by the Department and the current certification shall continue in full force and effect until the Department issues either a certification renewal or a Final Order denying the application.
- e) For purposes of this Section, a timely and sufficient manner means that:

- 1) the application is postmarked by December 1 of the year of certification expiration;
 - 2) the application is made using the Department's technician renewal form;
 - 3) the application is signed by the certified technician;
 - 4) a check or money order for the renewal fee required by Section 9 of the Act is enclosed; and
 - 5) documentation of attending at least one Department approved pest control training seminar during the 3 years prior to renewal application is either on file with the Department or enclosed with the renewal application.
- f) A renewal application which does not comply with subsection (e)(2) through (5) of this Section shall be considered insufficient and returned to the applicant, and the current certification shall lapse on the December 31 expiration date.
- g) A renewal application which is sufficient but not timely (filed after December 1) shall be processed by the Department, but the current certification shall lapse on the December 31 expiration date. If such application is postmarked after December 31 of the year of expiration, the renewal fee shall include the late filing charge required by Section 9 of the Act and Section 830.210 of this Part in order to be considered a sufficient application.
- h) The Department's acceptance of an application as sufficient for processing shall not be construed as a determination of the merits of the application or the technician's qualifications for certification renewal.

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(Source: Amended at 21 Ill. Reg. 15010, effective NOV 15 1997)

SUBPART F: HEARINGS AND ADMINISTRATIVE FINES

Section 830.710 Administrative Fines

a) The Department is authorized to assess administrative civil fines against a licensee, registrant or certified technician for violations of the Act or this Part. These fines may be assessed in addition to, or in lieu of, license, registration, or certification suspensions and revocations.

b) The amount of a fine shall be determined in accordance with the Schedule of Administrative Civil Fines in Section 830.700, Table A and the following criteria:

- 1) A violation, for the purposes of this Section, will be considered to mean a finding of violation of a Section of the Act or this Part by a court of competent jurisdiction in this or any other state, or by the Director in a Final Order issued pursuant to the Act, or by a notice of warning issued in accordance with Section 14 of the Act;
- 2) For purposes of determining a second violation, an initial violation means the first violation of a particular Section of the Act or this Part within the previous three years or since the effective date of this amendment, whichever is less;
- 3) Each location shall be considered separately with regard to violation determinations under this Part;
- 4) A Type A violation is any one of the following:
 - A) Failure to observe the general safety precautions of Section 830.800.
 - B) Failure to abide by any stop sale or stop use order issued under Section 830.860.
 - C) Failure to notify the Department of any incident or accident involving pesticides as required in Section 830.870.
 - D) Use of a pesticide in a manner inconsistent with its labeling directions (Section 830.810).
 - E) Performing a pesticide application or inspection in a faulty, careless, or negligent manner (Section 13(d) of the Act).
 - F) Performing structural pest control in violation of the license and registration requirements of Section 4(a) or 4(b) of the Act.
 - G) Performing structural pest control in violation of the certification requirements of Section 4(c) and 5 of the Act and Section 830.230 and 830.270.
 - H) Performing structural pest control in violation of an order issued by the Director or his authorized representative (Sections 10(f), 13(a) and 14 of the Act).

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- I) Failure to use methods or materials suitable for structural pest control (Section 13(c) of the Act).
- J) Performing structural pest control utilizing or authorizing the use or sale of pesticides which are in violation of the FTFA or the Illinois Pesticide Act (Section 13(i) of the Act).
- K) Performing avicide applications in violation of Sections 830.880 through 830.890.
- 5) A Type B violation is any one of the following:
- A) Failure to cease pest control operations when there is an interruption in insurance coverage (Section 830.260(d)).
- B) Making or reporting false, misleading or fraudulent information to the Department (Section 13(c) of the Act).
- C) Fraudulent advertisements or solicitations relating to structural pest control (Section 13(f) of the Act).
- D) Allowing a license, permit, registration or certification to be used by another person (Section 4(f) and 6 of the Act).
- E) Using the certification of a structural pest control technician in order to secure or maintain a license or registration when that individual is not actively employed at the business location (Section 6 of the Act).
- F) Aiding or abetting a person to evade any provision of this Act (Section 13(g) of the Act).
- G) Impersonating any federal, State, county or city official (Section 13(h) of the Act).
- H) Failure to allow the Department to perform inspections and investigations in accordance with Sections 10(g) and 10(h) of the Act.
- 6) A Type C violation is any one of the following:
- A) Failure to observe the pesticide storage requirements of Section 830.830.
- B) Failure to observe the service vehicle requirements of Section 830.840.
- C) Failure to observe the pesticide storage practices of Section 830.850.
- D) Failure to establish and maintain insurance in accordance with Section 9 of the Act and Sections 830.250 and 830.260 excluding subsection (b)(5)(A) of this Section.
- E) Failure to establish and maintain records of pesticide applications in accordance with Section 830.820.
- F) Failure of a licensee or registrant to provide written notification to the Department concerning the loss of their only certified technician and subsequent shutdown in accordance with Section 8 of the Act and Section 830.240(b).
- G) Failure of a certified technician to provide written notification to the Department in accordance with Section 830.240(a).
- H) Failure to renew a license or registration in accordance

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- with Section 4(e) of the Act and Section 830.180.
- I) Failure to renew a structural pest control technician certification in accordance with Section 6 of the Act and Section 830.200.
- J) Failure to notify the Department of a change in business ownership in accordance with Section 830.190.
- K) Failure to perform the notification and license replacement procedures in accordance with Section 4(d) of the Act when there is a change in business location.
- L) Failure to provide information to the Department upon request in accordance with Section 13(e) of the Act.
- M) Failure to display or provide a current license, registration and certification in accordance with Section 830.310.
- N) Failure to observe the groundwater protection requirements in accordance with Subpart I of this Part.
- c) Any penalty not paid within 60 days after notice from the Department shall be submitted to the Attorney General's Office for collection. Failure to pay a penalty shall also be grounds for suspension or revocation of a license, permit, registration and certification.

(Source: Amended at 21 Ill. Reg. 15010, effective NOV 1, 2007)

SUBPART G: SAFE PESTICIDE STORAGE AND HANDLING

Section 830.850 Pesticide Storage Practices

All pesticides utilized by the owners, operators, or employees of commercial or non-commercial pest control business locations and ~~their employees~~ shall be stored according to labeling instructions. The following practices are intended to supplement labeling instructions. Where there is a discrepancy between labeling instructions and the following practices, the more stringent instructions shall prevail.

a) Except as noted below in subsection (b), all pesticides shall be stored in closed, original containers, free from severe corrosion (e.g., rusted so as to affect the integrity of the containers; leaking) and pesticide contamination. The container, except 55 gallon drums, shall be stored on pallets, racks, shelves, or cabinets with the label plainly visible. Lost or damaged labels shall be replaced with an approved sample label obtained from the pesticide manufacturer or distributor, and fastened to the container. Damaged containers other than fumigants shall be replaced with identically labeled containers or, if not available, a properly labeled service container for temporary storage or transport.

b) Service containers shall only be utilized to temporarily store or transport a pesticide concentrate or registered ready-to-use product providing the following conditions are met:

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- 1) The service container shall bear a legible label which includes the following information:
- A) the name, address and telephone number of the commercial or non-commercial location using the product;
 - B) the product name and USEPA registration number;
 - C) the name and percentage of active ingredients;
 - D) the signal word for the registered label;
 - E) mixing instructions as well as the working dilution (if applicable);
 - F) the phrase "KEEP OUT OF REACH OF CHILDREN"; and
 - G) a Statement of Practical Treatment; or
- 2) A copy of the current USEPA approved label for the registered pesticide attached to the service container along with the information presented in Section 830.850(b)(1)(A).
- 3) A service container shall be closed when not in use, clean so as to prevent the misuse of a pesticide as described in Section 830.810 of this Part, and non-leaking.
- c) Pesticides used for structural pest control shall be segregated from all other pesticides.
- d) Fumigants shall not be stored within any human dwelling or attached structure.
- e) Restricted use pesticides shall be stored in the locked storage area segregated from all other pesticides. The area shall be identified by a placard stating "RESTRICTED USE PESTICIDES - Authorized Use Only" in black letters on a yellow background. The sign shall be the same size, or larger, and contain the same information in the same proportion as that found in Illustration B.
- f) Non-restricted pesticides with a signal word "DANGER" on the label shall be kept segregated from other pesticides.
- g) Pesticides which cannot be used because of suspension by USPPA or regulatory action by the Illinois Department of Agriculture and/or this Department shall be marked as such and segregated from other stocks so that they are not used.
- h) No pesticide shall be stored in any food or beverage container or in the same room, or passenger area of a service vehicle, where food, eating utensils, beverages, tobacco products or household goods are stored, except for closed food or feed containers used only for unmixing bait. Each such bait container shall be marked in a plainly visible manner, "BIO-NGR-BAY---USE FOR BAIT ONLY." Such bait container must be stored in the locked area with the pesticides to prevent unauthorized access.

(Source: Amended at 21 Ill. Reg. 15025, effective Nov 1, 1997)

Section 830.860 Orders to Stop Sale, Stop Use, Seize or Regulate Removal

- a) The Department shall issue a written order to stop the sale or use or

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- to regulate the removal of any pesticide or device used in structural pest control which is sold, distributed, stored or used in violation of any provision of the Act and this Part, as well as the Illinois Pesticide Act and the rules pertaining to Pesticide Control, and FIFRA. The Department shall also have the authority to issue a written order to seize any pesticide used, sold, stored or distributed for structural pest control when continued use, sale, storage or distribution poses a threat to the health and safety of the residents of this State.
- b) Said order shall be issued to the person in charge of any such pesticide or device. If the person in charge is not available for pesticide of the order, the order will be attached to the pesticide or device.
- c) Any individual who receives an order issued by the Department pursuant to this Section may submit a letter to the Department proposing an alternative action for the disposal or storage of any pesticide or device. Any pesticide or device affected by the order shall not be offered for sale, distribution or use until the conditions specified in the order have been met or amended and the order lifted by the Department, the Illinois Department of Agriculture or USEPA.

(Source: Amended at 21 Ill. Reg. 15026, effective Nov 1, 1997)

SUBPART I: GROUNDWATER PROTECTION

Section 830.1000 Scope and Applicability

- a) This Subpart shall apply to commercial structural pest control business locations that have pesticide storage units as specified in subsection (a)(1), (2) or (3) of this Section and have certified their intent in writing to the Department to be subject to the provisions of Section 14.6 of the Environmental Protection Act [415 ILCS 5/14.6] for regulation by the Department in accordance with this Part. Certification for businesses that have pesticide storage units meeting the following specifications shall be submitted to the Department by February 1, 1998, or within 90 days after the effective date of an ordinance or regulation establishing or expanding a maximum setback zone or regulated recharge area, pursuant to Section 14.3 or 17.3 of the Environmental Protection Act:
- 1) A storage unit located within a potable water supply well setback zone;
 - 2) An existing storage unit located within a community water supply well regulated recharge area not to exceed 2,500 feet from the wellhead; or
 - 3) A new storage unit located within a community water supply well regulated recharge area, unless prohibited by the Illinois Pollution Control Board.

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- b) Commercial structural pest control business locations that have storage units as specified in subsection (a)(1), (2) or (3) of this Section but have not certified their intent in writing to the Department to be subject to the provisions of Section 14.6 of the Environmental Protection Act shall be subject to the provisions of Section 14.4 and 14.5 of the Environmental Protection Act [415 ILCS 5/14.4 and 14.5] and the regulations promulgated by the Illinois Pollution Control Board at 35 Ill. Adm. Code 615, 616 and 670 and administered by the Illinois Environmental Protection Agency, or the regulations promulgated by the Illinois Department of Agriculture at 8 Ill. Adm. Code 257.

(Source: Added at 21 Ill. Reg. 170.010 effective 1/1/88)

Section 830.1100 Protection of Potable Water Supplies

- a) In accordance with Section 14.2(d) of the Environmental Protection Act, the storage of pesticides for commercial structural pest control is prohibited within 400 feet of an existing or permitted potable water well which is classified as a community water system deriving water from an unconfined shallow fractured or highly permeable bedrock formation or from an unconsolidated and unconfined sand and gravel formation, or, in all other instances, within 200 feet of any other existing or permitted potable water supply well unless:

- 1) the owner of the storage unit has obtained a waiver from the owner of each affected potable water supply well and concurrence from the Illinois Environmental Protection Agency in accordance with Section 14.2(b) of the Environmental Protection Act;
 - 2) the owner of the pesticide storage unit is also the owner of the affected potable private water supply well and has notified the Illinois Environmental Protection Agency in accordance with Section 14.2(b) of the Environmental Protection Act, in which case the prohibited distance is 75 feet;
 - 3) the owner has obtained an exception from the Illinois Pollution Control Board in accordance with Section 14.2(c) of the Environmental Protection Act;
 - 4) the owner establishes minimal hazard certification eligibility with the Illinois Environmental Protection Agency in accordance with Sections 14.2(d) and 14.5 of the Environmental Protection Act for proposing to locate a storage unit outside of the 200 feet, but within the 400 feet, setback zone of a community water supply well; or
 - 5) the storage unit located within the well setback zone was in existence prior to July 1, 1988.
- b) Owners of commercial structural pest control locations which store pesticides for commercial application purposes in storage units which meet the allowable criteria for storage within the minimum setback

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zones as identified in subsection (a) of this Section and as specified in Section 830.1000(a) shall store pesticides in accordance with the requirements of Subpart G of this Part and the following:

- 1) Prior to storing pesticides in accordance with this subsection (b), the owner shall provide the Department with a copy of any waiver, exception, notification response and/or eligibility obtained from all affected well owners, the Illinois Environmental Protection Agency and/or the Illinois Pollution Control Board, which authorizes storage within the minimum setback zones.
- 2) No more than 300 gallons of pesticides (liquid concentrates and diluted materials) shall be stored at a structural pest control location at any given time.
- 3) Secondary containment of all liquid pesticides shall be provided as follows:
 - A) The containment structure shall have a minimum containment volume of 125% of the capacity of the largest container;
 - B) The containment structure shall be constructed of an impervious material such as sealed concrete, steel or synthetic materials or shall contain a liner made from an impervious material. A minimum four-inch curb or other flow diverting structure or system shall be utilized to prevent spilled materials from leaving the containment structure. There shall be no discharge outlets, drains or other penetrations through the floor or walls of the containment structure;
 - C) All containment materials shall be compatible with the products being stored and shall be capable of being decontaminated. Spills must be removed from the containment area in a timely manner to prevent harm to human health, the environment and the migration of the materials from the containment area.
- 4) The owner shall ensure that monthly inspections of all pesticide containers and secondary containment structures are conducted. Any cracks, leaks or deterioration in the containment structure or pesticide containers shall be immediately repaired or replaced with compatible materials. A written record of all inspections and maintenance performed under this subsection (b)(4) shall be kept in the storage unit. Records shall be available for inspection upon Department request.
- 5) The owner shall ensure proper management of all pesticide containers:
 - A) Containers shall not be opened, handled or stored in a manner which may cause the container to be ruptured or to leak.
 - B) Containers shall not be stacked higher than seven feet off the floor.
 - C) Drip and catch pans filled with absorbent material shall be

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provided under all pumps and valves connected to any pesticide container and shall be replaced whenever they lose their absorbent capacity.

D) Empty containers shall be disposed of or utilized in a manner that is in compliance with State and federal laws and regulations.

6) At the time of closure or discontinuance of operation, all pesticide products and empty containers shall be removed from the storage area and disposed of or utilized in a manner that is in compliance with State and federal laws and regulations. In addition, all contaminated containment components, soils, structures and equipment shall be decontaminated or removed and disposed of in a manner that is in compliance with State and federal laws and regulations. Within 60 days after the completion of the closure activities, the owner shall provide written notification to the Department that all of the prescribed requirements of this subsection (b)(6) have been met.

(Source: Added at 21 Ill. Reg. 15029, effective 10/1/97)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Numbers: Proposed Action:
310.Appendix A, Table Q Amended
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute Which Requires this Peremptory Rulemaking: Section 1-5(d) of the Illinois Administrative Procedure Act [5 ILCS 100/1-5(d)]
- 5) Statutory Authority: 20 ILCS 415/8 and 8a.
- 6) Effective Date: November 10, 1997
- 7) A Complete Description of the Subjects and Issues Involved: This amendment to the Pay Plan reflects the newly negotiated three-year Collective Bargaining Agreement for the Meat Inspectors (RC-033), effective July 1, 1997 through June 30, 2000.

Effective July 1, 1997, the Meat Inspector employees will receive a one-time \$565 cash bonus. The salary schedules will be adjusted by a 3% across-the-board increase for July 1, 1998 and July 1, 1999.

Effective July 1, 1998, a longevity clause will be included for those employees on Step 7. The Step 7 rate shall be increased by \$25 per month for those employees who have attained 10 years of continuous service and have 3 or more years of creditable service on Step 7 in the same pay grade. The Step 7 rate shall be increased by \$50 a month for those employees who have attained 15 years of continuous service and have 3 or more years of creditable service on Step 7 in the same pay grade.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date Filed in Agency's Principal Office: November 10, 1997
- 10) Is this rule in compliance with Section 5-50 of the Illinois Administrative Procedure Act? Yes
- 11) Are there any proposed amendments pending to this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
310.110	Amended	21 Ill. Reg. 9923 (July 21, 1997)
310.130	Amended	21 Ill. Reg. 9923 (July 21, 1997)
310.290	Amended	21 Ill. Reg. 9923 (July 21, 1997)
310.450	Amended	21 Ill. Reg. 9923 (July 21, 1997)
310.530	Amended	21 Ill. Reg. 9923 (July 21, 1997)
310.540	Amended	21 Ill. Reg. 9923 (July 21, 1997)

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310.App B Amended 21 Ill. Reg. 9923 (July 21, 1997)
 310.App C Amended 21 Ill. Reg. 9923 (July 21, 1997)
 310.App D Amended 21 Ill. Reg. 9923 (July 21, 1997)
 310.App G Amended 21 Ill. Reg. 9923 (July 21, 1997)
 310.App D Amended 21 Ill. Reg. 12859 (September 8, 1997)
 310.App G Amended 21 Ill. Reg. 12859 (September 8, 1997)
 310.230 Amended 21 Ill. Reg. 14648 (November 14, 1997)
 310.270 Amended 21 Ill. Reg. 14648 (November 14, 1997)
 310.280 Amended 21 Ill. Reg. 14648 (November 14, 1997)

12) Statement of Statewide Policy Objectives: These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code and do not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.

13) Information and questions regarding this adopted amendment shall be directed to:

Mr. Michael Murphy
 Department of Central Management Services
 Division of Technical Services
 504 William G. Stratton Building
 Springfield, IL 62706
 (217)782-5601

The full text of the Peremptory Amendment begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
 SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
 POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
 PAY PLAN

SUBPART A: NARRATIVE

Section	Policy and Responsibilities
310.20	Jurisdiction
310.30	Pay Schedules
310.40	Definitions
310.50	Conversion of Base Salary to Pay Period Units
310.60	Conversion of Base Salary to Daily or Hourly Equivalents
310.70	Increases in Pay
310.80	Decreases in Pay
310.90	Other Pay Provisions
310.100	Implementation of Pay Plan Changes for Fiscal Year 1997
310.110	Interpretation and Application of Pay Plan
310.120	Effective Date
310.130	Reinstitution of Within Grade Salary Increases
310.140	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)
310.150	

SUBPART B: SCHEDULE OF RATES

Section	Introduction
310.205	Prevailing Rate
310.210	Negotiated Rate
310.220	Part-Time Daily or Hourly Special Services Rate
310.230	Hourly Rate
310.240	Member, Patient and Inmate Rate
310.250	Trainee Rate
310.260	Legislated and Contracted Rate
310.270	Designated Rate
310.280	Out-of-State or Foreign Service Rate
310.290	Educator Schedule for RC-063 and HR-010
310.300	Physician Specialist Rate
310.310	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.320	Excluded Classes Rate (Repealed)
310.330	

SUBPART C: MERIT COMPENSATION SYSTEM

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Section	
310.410	Jurisdiction
310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases
310.455	Intermittent Merit Increase
310.456	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase Guidechart for Fiscal Year 1997
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

APPENDIX A Negotiated Rates of Pay

TABLE A HR-190 (Department of Central Management Services - State of Illinois Building - SEIU)

TABLE AA NR-916 (Department of Natural Resources, Teamsters)

TABLE B HR-200 (Department of Labor - Chicago, Illinois - SEIU)

TABLE C RC-069 (Firefighters, AFSCME) (Repealed)

TABLE D HR-001 (Teamsters Local #726)

TABLE E RC-020 (Teamsters Local #330)

TABLE F RC-019 (Teamsters Local #25)

TABLE G RC-045 (Automotive Mechanics, IFPE)

TABLE H RC-006 (Corrections Employees, AFSCME)

TABLE I RC-009 (Institutional Employees, AFSCME)

TABLE J RC-014 (Clerical Employees, AFSCME)

TABLE K RC-023 (Registered Nurses, INA)

TABLE L RC-008 (Boilermakers)

TABLE M RC-110 (Conservation Police Lodge)

TABLE N RC-010 (Professional Legal Unit, AFSCME)

TABLE O RC-028 (Paraprofessional Human Services Employees, AFSCME)

TABLE P RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)

TABLE Q RC-033 (Meat Inspectors, IFPE)

TABLE R RC-042 (Residual Maintenance Workers, AFSCME)

TABLE S HR-012 (Fair Employment Practices Employees, SEIU)

TABLE T HR-010 (Teachers of Deaf, IFT)

TABLE U HR-010 (Teachers of Deaf, Extracurricular Paid Activities)

TABLE V CU-500 (Corrections, Meet and Confer Employees)

TABLE W RC-062 (Technical Employees, AFSCME)

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TABLE X	RC-063 (Professional Employees, AFSCME)
TABLE Y	RC-063 (Educators, AFSCME)
TABLE Z	RC-063 (Physicians, AFSCME)
APPENDIX B	Schedule of Salary Grades - Monthly Rates of Pay for Fiscal Year 1997
APPENDIX C	Medical Administrator Rates for Fiscal Year 1997
APPENDIX D	Merit Compensation System Salary Schedule for Fiscal Year 1997
APPENDIX E	Teaching Salary Schedule (Repealed)
APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
APPENDIX G	Broad-Band Pay Range Classes Salary Schedule

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; peremptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; peremptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 1570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14,

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1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27,

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1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; peremptory amendment at 22 Ill. Reg. 14300, effective November 10, 1997.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Section 310.APPENDIX A Negotiated Rates of Pay

Section 310.TABLE Q RC-033 (Meat Inspectors, IFPE)

Effective-July-17-1994

	Steps					
	1	2	3	4	5	6
Meat-and-Poultry Inspector-Trainee	1776	1853	1920	1993	2063	2130
Meat-and-Poultry Inspector	2026	2112	2202	2291	2378	2469

NOTE:--Effective-July-17-1994,--employees-who-have-15-years-of-service-and-have-3-or-more-years-of-creditable-service-on-Step-7--in--the--same--pay--grade--shall receive-an-additional-\$25-00-monthly.

Effective-July-17-1995

	Steps					
	1	2	3	4	5	6
Meat-and-Poultry Inspector-Trainee	1909	1970	2053	2125	2202	2324
Meat-and-Poultry Inspector	2175	2268	2360	2449	2543	2687

NOTE:--Effective--July--17--1995,--the--Step-7-bongevity-clause-is-terminated-for-duration-of-the-contract.

Effective: July 1, 1997 1996

	Steps					
	1	2	3	4	5	6
Meat and Poultry Inspector Trainee	1966	2037	2115	2189	2268	2394
Meat and Poultry Inspector	2240	2336	2431	2522	2619	2768

NOTE: Full-time employees will receive a one-time \$565.00 cash bonus.

Effective: July 1, 1998

	STEPS					
	1	2	3	4	5	6
Meat and Poultry Inspector Trainee	2025	2098	2178	2255	2336	2466
Inspector Trainee						2514

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Meat and Poultry Inspector	2307	2406	2504	2598	2698	2851	2908
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NOTE: Longevity Pay - The Step 7 rate shall be increased by \$25.00 per month for those employees who have attained 10 years of continuous service and have 3 or more years of creditable service on Step 7 in the same pay grade. The Step 7 rate shall be increased \$50.00 a month for those employees who have attained 15 years of continuous service and have 3 or more years of creditable service on Step 7 in the same pay grade.

Effective: July 1, 1999

	STEPS						
	1	2	3	4	5	6	7
Meat and Poultry Inspector Trainee	2086	2161	2243	2323	2406	2540	2589
Meat and Poultry Inspector	2376	2478	2579	2676	2779	2937	2995

(Source: Peremptory amendment at 22 Ill. Reg. 15.030, effective November 10, 1997)

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(g) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5 (g) (1996), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has issued a fine of \$2,500.00 against Expert Mortgage Associates, Inc., Palatine, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder. regulations adopted thereunder.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF SUSPENSION IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(g) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5 (g) (1996), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has suspended the license of American Funding Group, License #4476, for 180 days for failure to submit to examination by the Commissioner as required by the Act.

DEPARTMENT OF STATE POLICE MERIT BOARD

NOTICE OF WITHDRAWAL OF PROPOSED RULES

- 1) Heading of the Part: Procedures of the Department of State Police Merit Board
- 2) Code Citation: 80 Ill. Adm. Code 150
- 3) Section Numbers: 150.210
Proposed Action: Increase applicant education standards to a Bachelor's Degree
- 4) Date Notice of Proposed Rules Published in the Register: October 17, 1997, 21 Ill. Reg. 13812
- 5) Reason for Withdrawal: We would like to evaluate additional information pertaining to the rule change before proceeding further.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of November 4, 1997 through November 10, 1997 and have been scheduled for review by the Committee at its December 16, 1997 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
12/18/97	Department of Natural Resources, Duck, Goose and Coot Hunting (17 Ill Adm Code 590)	9/19/97 21 Ill Reg 12805	12/16/97
12/19/97	Department of Central Management Services, Pay Plan (80 Ill Adm Code 310)	9/19/97 21 Ill Reg 12803	12/16/97
12/19/97	Department of Public Health, The Illinois Water Well and Pump Installation Contractor's License Code (77 Ill Adm Code 915)	2/28/97 21 Ill Reg 2847	12/16/97
12/19/97	Department of Public Health, Illinois Water Well Pump Installation Code (77 Ill Adm Code 925)	4/25/97 21 Ill Reg 5073	12/16/97
12/19/97	Department of Public Health, Illinois Water Well Construction Code (77 Ill Adm Code 920)	4/25/97 21 Ill Reg 5018	12/16/97
12/19/97	Office of Banks and Real Estate, Residential Mortgage License Act of 1987 (38 Ill Adm Code 1050)	9/19/97 21 Ill Reg 12815	12/16/97
12/24/97	State Employees' Retirement System, The Administration and Operation of the State Employees' Retirement System of Illinois (80 Ill Adm Code 1540)	9/26/97 21 Ill Reg 13158	12/16/97
12/24/97	Department of Revenue, Income Tax (86 Ill Adm Code 100)	9/19/97 21 Ill Reg 12835	12/16/97

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

12/24/97	Environmental Protection Agency, Rules of the Illinois Environmental Protection Agency: Accreditation of Laboratories for Drinking Water, Wastewater and Hazardous Waste Analysis (35 Ill Adm Code 186)	6/13/97 21 Ill Reg 6979	12/16/97
12/24/97	Environmental Protection Agency, Joint Rules of the Illinois Environmental Protection Agency, the Illinois Department of Public Health and the Illinois Department of Nuclear Safety: Certification and Operation of Environmental Laboratories (35 Ill Adm Code 183)	6/13/97 21 Ill Reg 6948	12/16/97
12/24/97	Secretary of State, Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill Adm Code 1040)	9/26/97 21 Ill Reg 13100	12/16/97
12/24/97	Secretary of State, Issuance of Licenses (92 Ill Adm Code 1030)	9/26/97 21 Ill Reg 13128	12/16/97

PROCLAMATIONS

97-602

JERICHO WALK DAY

Whereas, on October 18, 1997, at 12:00 noon, "The Second Annual Jericho Walk" will convene at the Daley Plaza Center in Chicago; and

Whereas, The Jericho Walk is an ecumenical, multi-ethnic and cultural event which seeks to bring together all segments of Chicago's vast communities in a spirit of goodwill; and

Whereas, it is the organization's vision that the barriers that have so long separated Americans can be brought down, just as the once impenetrable Berlin Wall met its demise. Although largely invisible, the barriers between Americans can be reshaped into bridges to the future; and

Whereas, it is the intent of the organization to engage in serious problem-prevention as a means of problem solving; and

Whereas, the aim is simply to tear down the walls of racial and gender discrimination, hatred, crime, isolation, poverty, violence, fear and peer pressure and foster an atmosphere of understanding, love, respect and tolerance for all people as we head into the new millennium; and

Whereas, the name "Jericho Walk" symbolizes the destruction of the Jericho Wall. The organization devotes time to bringing down the walls of separation in our neighborhoods, cities, nations and the world; and

Whereas, many well known clergy-men and women, civil rights leaders, politicians and entertainers will lend their personal support by attending the Jericho Walk. In addition, guest celebrities, civil rights and community leaders will be available for interviews;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 18, 1997, as JERICHO WALK DAY in Illinois.

Issued by the Governor October 17, 1997.

Filed by the Secretary of State October 27, 1997.

97-603

A DAY OF REMEMBRANCE FOR "THE GREAT HUNGER" OF IRELAND

Whereas, "The Great Hunger" in Ireland, also known as the famine, took place from 1845 to 1852; and

Whereas, Ireland's sons and daughters were forced to immigrate to escape the ravages of hunger, the terror of eviction and the disruption of family life, where they found a new home in America; and

Whereas, the Irish Diaspora's contributions to society and the impact of their presence in building this nation will forever be remembered; and

Whereas, the Irish were instrumental in building cities, towns, schools, churches, hospitals, canals and railroads in the great State of Illinois and went on to become leaders in all walks of life;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim November 9, 1997, as A DAY OF REMEMBRANCE FOR "THE GREAT HUNGER" OF IRELAND in Illinois.

Issued by the Governor October 20, 1997.

Filed by the Secretary of State October 27, 1997.

97-604

PROCLAMATIONS

ADAM N. POPOVICH DAY

Whereas, Adam N. Popovich has been directing, teaching and inspiring people through his music for 60 years; and

Whereas, Adam Popovich has made significant musical contributions by directing, with excellence, the Serbian Singing Society Sloboda Choir; and

Whereas, he also excelled as a tambura player with his brothers Pete, Eli, Ted, Mike and his adopted brother, Pete Mistovich, who together made beautiful and inspirational music; and

Whereas, Adam Popovich has made extraordinary efforts to enrich Serbian heritage in Illinois through his music; and

Whereas, my friend, Sam Panayotovitch, and his family have made known to me and other state officials the importance of Adam Popovich's work to maintain customs and traditions in the Serbian community;

Therefore, I, Jim Edgar, Governor of Illinois proclaim November 1, 1997, as ADAM N. POPOVICH DAY in Illinois and congratulate and thank him for his lifelong work of inspiring others through his music.

Issued by the Governor October 20, 1997.

Filed by the Secretary of State October 27, 1997.

97-605

CAPITAL AIRPORT HONORED ON 50TH ANNIVERSARY

Whereas, the aviation industry plays a vital role in the everyday lives of people across the globe by making important social and economic contributions; and

Whereas, Capital Airport in Springfield, Illinois, dedicated on November 2, 1947, by the good people of Springfield and its nearby neighbors, has for five decades been a key link in the nation's overall aviation infrastructure and network of airports; and

Whereas, Capital Airport plays a significant role in contributing to the health and vitality of the City of Springfield and central Illinois; and

Whereas, Capital Airport is a public transportation complex spanning 2,250 acres, offering three paved runways, and an 80,000 square foot airline terminal building, with scheduled air service to Chicago and St. Louis; and

Whereas, Capital Airport is an FAA recognized air traffic control facility and is home to the 183rd Tactical Fighter Wing, the Illinois Division of Aeronautics, Garrett Aviation, the Springfield Air Rendezvous Air Show, and other important tenants; and

Whereas, Capital Airport employs a total of 942 full-time employees, 1,200 part-time employees and contributes an annual economic impact of \$183 million dollars to the local economy; and

Whereas, the Board of Commissioners and its officers, the management and all the employees of the Springfield Airport Authority recently recommitted themselves to operate and market a safe, efficient, self-sustaining intermodal transportation facility that meets and/or exceeds the forecasted needs of the Springfield and Sangamon County community into the future and the next 50 years;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim that we honor Capital Airport in Springfield, Illinois, this November 2, 1997, on

PROCLAMATIONS

its 50th Anniversary for its fine societal contributions.

Issued by the Governor October 20, 1997.

Filed by the Secretary of State October 27, 1997.

97-606

CREDIT UNION MONTH/CREDIT UNION WEEK/CREDIT UNION DAY

Whereas, credit unions are individual, independent cooperatives founded by people seeking economic advancement, and are passports to opportunity for people seeking a way to improve the condition of their lives and those of their families; and

Whereas, credit unions create opportunity in 85 nations around the world, so that 36,244 credit unions can serve the financial needs of 89 million members, associated through local, state, regional and international organizations sharing the same commitment to serving credit unions' members; and

Whereas, Illinois continues to be a leader in the credit union movement with more than 1,900,000 Illinois citizens as members of the 505 state chartered credit unions; and

Whereas, the 72nd anniversary of the enactment of the Credit Union Law in Illinois will be celebrated throughout the state in October, when International Credit Union Day, Week and Month are observed;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1997 as CREDIT UNION MONTH; October 13-17, 1997, as CREDIT UNION WEEK; and October 16, 1997, as CREDIT UNION DAY in Illinois.

Issued by the Governor October 20, 1997.

Filed by the Secretary of State October 27, 1997.

97-607

HAI TALAT M. OTHMAN DAY

Whereas, the Islamic Cultural Center of Greater Chicago (ICC) announces a Banquet in honor of Haj Talat M. Othman on November 1, 1997; and

Whereas, Talat M. Othman is a founding member and past president of the Islamic Cultural Center of Greater Chicago, Inc. His leadership made ICC a major participant in the Council of Islamic Organizations of Greater Chicago; and

Whereas, Talat M. Othman formed the Council of Islamic Organizations and made significant contributions to the Islamic Cultural Center of Greater Chicago for many years; and

Whereas, during his distinguished leadership, a school advisory board was formed, the weekend school was expanded, a weekly lecture series was initiated, community outreach programs were launched and awards programs were started; and

Whereas, Talat M. Othman is active on the following boards: Board of Governors of St. Jude Children's Research Hospital, the Dean's Council of the Kennedy School of Government at Harvard University, the Board of Trustees for the Center for Excellence in Education, the Advisory Board of the Greater Middle East Studies Center at RAND (California), and the Board of Directors of the Middle East Policy Council, Washington, DC; and

Whereas, Talat M. Othman has frequently written and spoken on the

PROCLAMATIONS

international monetary system, international money markets and international economic issues; and

Whereas, Talat M. Othman is listed in Who's Who in Banking in Europe; Vallery International, 1983; Who's Who in the Midwest, 20th Edition, 1986-1987; The Directory of Distinguished Americans; American Biographical Institute, 1990; and Oxford's Who's Who;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim November 1, 1997, as HAJ TALAT M. OTHMAN DAY in Illinois.

Issued by the Governor October 20, 1997.

Filed by the Secretary of State October 27, 1997.

97-608

HISPANIC WOMEN'S BUSINESS DAY

Whereas, the Puerto Rican Chamber of Commerce in Illinois has continually shown its dedication to excellence through outstanding leadership; and

Whereas, leadership can only be successful through a unified effort; and

Whereas, it is important to unify, strengthen and enhance the position of Hispanic women leaders in the business community; and

Whereas, increased awareness of business opportunities for Hispanic women will contribute to the maintenance of existing businesses, the initiation of new businesses and the development of professional and personal growth; and

Whereas, the Puerto Rican Chamber of Commerce of Illinois and the Hispanic Women's Business Conference is dedicated to achieving this mission;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 30, 1997, as HISPANIC WOMEN'S BUSINESS DAY in Illinois.

Issued by the Governor October 20, 1997.

Filed by the Secretary of State October 27, 1997.

97-609

NORTHERN ILLINOIS CHILDREN'S CHORUS CONCERT CHOIR DAYS

Whereas, the Northern Illinois Children's Chorus Concert Choir, under the direction of Carol Stubbs, has been selected to be a representative of Illinois in the 1998 National Festival of the States in Washington, DC; and

Whereas, the National Festival of States honors a limited number of very select musical groups from each of the 50 states who will reflect and honor America's rich musical and cultural heritage in our nation's capital; and

Whereas, the Northern Illinois Children's Chorus, Inc. (NICC) is a not-for-profit organization serving children in DeKalb, Kane and Ogle Counties; and

Whereas, the NICC Concert Choir allows children the opportunity to develop their abilities as singers, build self-esteem, learn to value others, and cultivate an appreciation for many different styles of music;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 8-12, 1998, as NORTHERN ILLINOIS CHILDREN'S CHORUS CONCERT CHOIR DAYS in Illinois and encourage all citizens to applaud them for the honor and significance of this event.

Issued by the Governor October 20, 1997.

Filed by the Secretary of State October 27, 1997.

PROCLAMATIONS

97-610

OFF THE STREET CLUB DAY

Whereas, Off the Street Club provides an alternative to street gangs and violence for young people in Chicago's West Garfield Park; and

Whereas, Off the Street Club offers educational, recreational, and athletic activities and a safe haven for young people; and

Whereas, Off the Street Club is dedicated to making a difference in the lives of young people; and

Whereas, the 97th Annual Off the Street Club Holiday Luncheon will be held on Tuesday, December 9, 1997, at the Fairmont Hotel in Chicago, Illinois; and

Whereas, this year's luncheon theme is "Building a Better Dream,"

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim

December 9, 1997, as OFF THE STREET CLUB DAY in Illinois.

Issued by the Governor October 20, 1997.

Filed by the Secretary of State October 27, 1997.

97-611

MONTH OF THE YOUNG ADOLESCENT

Whereas, the period of young adolescence (10-15) is a distinct, developmental period between childhood and full adolescence, and

Whereas, this period has been little understood nor its importance recognized; and

Whereas, youth between the ages of approximately 10-15 undergo more extensive physical, mental, social, moral, and emotional changes, with the possible exception of infancy, than at any other time of life; and

Whereas, the attitudes and values young adolescents develop during these formative years largely determine their later behavior; and

Whereas, parents continue as primary models and guides, even as young adolescents learn many lessons; and

Whereas, the community itself is also a "classroom" in which young adolescents learn many lessons; and

Whereas, much valuable information and research about this important age group now exists and should be circulated;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1997 as MONTH OF THE YOUNG ADOLESCENT in Illinois and encourage those involved in the College Board Early Awareness Summit to join the celebration by extending their knowledge about these critical years and undertaking actions that will support the healthy development of young adolescents.

Issued by the Governor October 21, 1997.

Filed by the Secretary of State October 27, 1997.

97-612

MONROE STREET CHRISTIAN CHURCH MONTH/JAMES A. JOHNSON DAY

Whereas, the Monroe Street Christian Church celebrates: "This Far By Faith," 50 years of praising, praying and pressing forward; and

Whereas, the Church remembers fondly and warmly the leadership of Pastor J. O. Bowles, who guided the Church until 1962; and

PROCLAMATIONS

Whereas, the Church accepted the divine successor to Reverend Bowles, James A. Johnson, who has performed the noble work of the ministry with love, peace and giving; and

Whereas, spiritual and structural growth have taken place manifesting as a newly erected church structure in 1965; and

Whereas, continued growth and development have blessed the Church with eight classrooms, 650 seat sanctuary and 550 capacity fellowship hall in 1983; and

Whereas, 1997 marks a monumental occasion for all of the members and friends of Monroe Street Christian Church;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1997 as MONROE STREET CHRISTIAN CHURCH MONTH and October 25, 1997, as JAMES A. JOHNSON DAY in Illinois.

Issued by the Governor October 22, 1997.

Filed by the Secretary of State October 27, 1997.

97-613

PORNOGRAPHY AWARENESS WEEK

Whereas, the U.S. Supreme Court has repeatedly ruled that obscenity is not protected speech under the First Amendment; and

Whereas, pornography can inflict tremendous suffering and damage to individuals, families, business districts, communities, and our nation; and

Whereas, there are state and federal anti-obscenity laws on the books to protect public safety, public morality, and public health; and

Whereas, the obscenity laws are uniquely grounded in community standards; Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 26-November 2, 1997, as PORNOGRAPHY AWARENESS WEEK in Illinois.

Issued by the Governor October 22, 1997.

Filed by the Secretary of State October 27, 1997.

Rules acted upon during the quarter of April 1 through June 30, 1997 (Issues 17-28) are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 III. Adm. Code 4401 published in Issue 40 will be listed as 50-4401-40. The letter "R" designates a rule that is being repealed. The quarterly Sections Affected Index and Cumulative Index will be published in Issue 29 (July 15); Issue 42 (October 17); and Issue 3 (January 16, 1998). Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 (or inatalie@ccgate.sos.state.il.us (Internet address)).

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